



Statement of Ownership, Management, and Circulation

(Required by 39 U.S.C. 3685)

1. Publication Title LOUISIANA REGISTER	2. Publication No.										3. Filing Date 10/16/96
	0	0	0	0	7	5	4	5	0		

4. Issue Frequency Monthly	5. No of Issues Published Annually 12	6. Annual Subscription Price \$65.00
-----------------------------------	--	---

7. Complete Mailing Address of Known Office of Publication (Street, city, County State, and ZIP+4) (Not Printer)
1051 N 3rd Street, Rm. 512 Baton Rouge, LA 70802
P.O. Box 94095 Baton Rouge, LA 70804-9095

8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not Printer)
Same as Above

9. Full Names and Complete Mailing Addresses of Publisher, Editor and Managing Editor (Do Not Leave Blank)
Publisher (Name and Complete Mailing Address)

Office of the State Register, P.O. Box 94095, Baton Rouge, LA 70804-9095

Editor (Name and Complete Mailing Address)

Suzanne McAndrew, Office of the State Register, P.O. Box 94095 Baton Rouge, LA 70804-9095

Managing Editor (Name and Complete Mailing Address)

10. Owner (If owned by a corporation, its name and address must be stated and also immediately thereafter the names and addresses of stockholders owning or holding 1 percent of more of the total amount of stock. If not owned by a corporation, the names and addresses of the individual owners must be given. If owned by a partnership or other unincorporated firm, its name and address as well as that of each individual must be given. If the publication is published by a nonprofit organization, its name and address must be stated.) (Do Not Leave Blank)

Full Name	Complete Mailing Address
Office of the State Register	1051 North Third Street, Room 512
	Baton Rouge, LA 70802

11. Known Bondholders, Mortgagees, and Other Security Holders Owning or holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check here. ☒ None

Full Name	Complete Mailing Address
-	

12. For Completion by nonprofit organizations authorized to mail at special rates. The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes: (Check one)

☒ Has Not Changed during Preceding 12 Months

☐ Has Changed during Preceding 12 Months

If changed, publisher must submit explanation of change with this statement

13. Publication Name LOUISIANA REGISTER		14. Issue Date for Circulation Data Below September 1996	
15. Extent and Nature of circulation		Average No. Copies Each Issue during preceding 12 Months	Actual No. Copies of Single Issue Published Nearest to Filing Date
a. Total No. Copies (Net Press Run)		1066	1040
b. Paid and or Requested Circulation			
(1) Sales Through Dealers and carriers, Street Vendors, and Counter Sales (Not Mailed)		-	-
(2) Paid or Requested Mail Subscriptions (Include Advertisers Proof Copies/Exchange Copies)		724	668
c. Total Paid and/or Requested Circulation (Sum of 15b(1) and 15b(2))		724	668
d. Free Distribution by Mail (Samples, Complimentary, and Other Free)		74	78
e. Free Distribution Outside the Mail (Carriers or Other Means)		-	-
f. Total Free Distribution (Sum of 15d and 15e)		74	74
g. Total Distribution (Sum of 15c and 15f)		798	746
h. Copies Not Distributed			
(1) Office Use, Leftovers, Spoiled		268	294
(2) Return from News Agents		-	-
i. Total (Sum of 15g, 15h(1), and 15h(2))		1066	1040
Percent Paid and/or Requested Circulation (15c / 15g x 100)		90%	89%

16. This Statement of Ownership will be printed in the October 1996 issue of this publication. ☐ Check box if not required to publish.

17. Signature and Title of Editor, Publisher, Business Manager, Or Owner

Date

Suzanne L. McAndrew, Editor

10/16/96

I certify that all information furnished on this form is true and complete. I understand that any one who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including multiple damages and civil penalties).

Instructions to Publishers

- Complete and file one copy of this form with your postmaster on or before October 1, annually. Keep a copy of the completed form for your records.
- Include in items 10 and 11, in cases where the stockholder or security holder is a trustee, the name of the person or corporation for whom the trustee is acting. Also include the names and addresses of individuals who are stockholders who own or hold 1 percent or more of the total amount of bonds, mortgages, or other securities of the publishing corporation. In item 11, If none, check box. Use blank sheets if more space is required.
- Be sure to furnish all information called for in item 15, regarding circulation. Free circulation must be shown in items 15d, e, and f.
- If the publication had second-class authorization as a general or requester publication, this Statement of Ownership, Management, and Circulation must be published; it must be printed in any issue in October or the first printed issue after October, if the publication is not published during October.
- In item 16, indicate date of the issue in which this Statement of Ownership will be printed.
- Item 17 must be signed.

Failure to file or publish a statement of ownership may lead to suspension of second-class authorization.

CONTENTS

I. EXECUTIVE ORDERS	
MJF 96-30—Bond Allocation—Jefferson Parish Mortgage Authority	916
MJF 96-31—Bond Allocation—Housing Finance Agency	916
MJF 96-32—Bond Allocation—Housing Finance Agency	917
MJF 96-33—Bond Allocation—East Baton Rouge Mortgage Finance Authority	918
MJF 96-34—Bond Allocation—City of Alexandria	918
MJF 96-35—Bond Allocation—Bastrop Industrial Development Board	919
MJF 96-36—Bond Allocation—Parish of Rapides	920
MJF 96-37—Bond Allocation—Parish of Calcasieu, Inc., Industrial Development Board	920
MJF 96-38—Bond Allocation—Parish of Lincoln	921
MJF 96-39—Bond Allocation—Parish of St. Bernard	922
MJF 96-40—Bond Allocation—New Orleans Home Mortgage Authority	923
MJF 96-41—D.A.R.E. Advisory Council	923
MJF 96-42—Statewide Independent Living Council	924
MJF 96-43—Rehabilitation Advisory Council	925
MJF 96-44—Drug Control and Violent Crime Policy Board	926
MJF 96-45—Bond Allocation Extensions	927
II. POLICY AND PROCEDURE MEMORANDA	
Governor's Office	
Division of Administration, Office of the Commissioner—Contracts for Maintenance, Equipment and Services—PPM No. 51 (LAC 4:V.Chapter 17)	927
III. EMERGENCY RULES	
Agriculture and Forestry	
Livestock Sanitary Board—Diseases of Animals—Equine Infectious Anemia Eradication Program (LAC 7:XXI.Chapter 117)	928
Education	
Board of Elementary and Secondary Education—Bulletin 1706—Exceptional Children	932
Bulletin 1868—Personnel Manual (LAC 28:I.922)	932
Environmental Quality	
Office of Solid and Hazardous Waste, Solid Waste Division—Waste Tire Priority System (LAC 33:VII.Chapter 105)(SW021E1)	933
Governor's Office	
Division of Administration, Office of the Commissioner—Conduct of Hearing (LAC 34:I.3103)	934
Health and Hospitals	
Office of the Secretary, Bureau of Health Services Financing—Aid to Families with Dependent Children and Supplemental Security Income—Medicaid Programs	935
Case Management Services—Reimbursement	935
Case Management Services for Mentally Retarded and Developmentally Disabled Program Reduction	937
Case Management for Seriously Mentally Ill—Termination of Services	938
Direct Reimbursement to Recipients During Period of Retroactive Eligibility	938
Disproportionate Share Hospital Payment Methodologies	939
Durable Medical Equipment Program—Customized Wheelchairs Reimbursement	942
EPSDT Program—Follow-up Medical Screening and Rehabilitation Services	942
Federally Qualified Health Centers Reimbursement Methodology	943
Home Community Based Service Waiver Program—Mentally Retarded Developmentally Disabled Waiver	944
Professional Services Program—Physician Services	945
Rehabilitation Hospitals—Hospital Prospective Reimbursement Methodology	946
State-Funded Medically Needy Program	947
Title XIX—Medically Needy Program	948
Labor	
Board of Review—Continuances, Postponements, Re-openings, and Rehearings (LAC 40:IV.113)	949
Public Safety and Corrections	
Gaming Control Board—Record Preparation Fees and Quarterly Submissions (LAC 42)	950

This public document was published at a total cost of \$2,460.46. Nine hundred, seventy-five copies of this public document were published in this monthly printing at a cost of \$4,460.46. The total cost of all printings of this document including reprints is \$2,460.46. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-987. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Register* is available at the Office of the State Register, or an audio cassette tape of requested sections of the *Register* can be provided for the cost incurred by the Office of the State Register in producing such a tape. For more information contact the Office of the State Register.

Social Services	
Office of Family Support—AFDC-Alien Eligibility (LAC 67:III.1141 and 1143)	951
JOB Program Participation Requirements (LAC 67:III.2907)	952
General Administrative Procedures and Food Stamp Program (LAC 67:III.Chapters 1 and 19)	952
Transportation	
Office of the Secretary—Bridge Toll—Crescent City Connection Exemptions - Law Enforcement Personnel (LAC 70:I.513)	957
Bridge Toll—Crescent City Connection Exemptions - Students (LAC 70:I.509)	958
Treasury	
Board of Trustees of the State Employees Group Benefits Program—Plan Document—Private Duty Nursing; Organ Transplants; Well Child Care	959
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Public Oyster Seed Ground Closure	960

IV. RULES

Agriculture and Forestry	
Livestock Sanitary Board—Brucellosis Eradication—Approved Vaccine (LAC 7:XXI.11734-11737)	960
Economic Development	
Office of Commerce and Industry, Financial Incentives Division—Quality Jobs Program (LAC 13:I.Chapter 42)	961
Environmental Quality	
Office of Air Quality and Radiation Protection, Radiation Protection Division—Shielding Exemptions; NRC Revisions (LAC 33:XV.Chapters 1,4,6, and 10)(NE015)	966
Office of the Secretary—Emergency Response (LAC 33:I.Chapter 69)(OS018A)	976
Office of Solid and Hazardous Waste, Hazardous Waste Division—RCRA IV Authorization Federal Package (LAC 33:V.Chapters 1-43 and 49)(HW050)	980
Standards to Control Metals Emissions (LAC 33:V.3013)(HW053)	980
Health and Hospitals	
Board of Examiners of Psychologists—Public Display of Board's Address (LAC 46:LXIII.1903)	980
Board of Nursing—Registration and Licensure Fees (LAC 46:XLVII.3361)	981
Board of Nursing and Board of Medical Examiners—Advanced Practice Registered Nurse Demonstration Projects (LAC 46:XLVII.4513)	981
Office of Public Health—Sanitary Code—Mechanical Wastewater Treatment (Chapter XIII)	984
Insurance	
Commissioner of Insurance—Regulation 55—Life Insurance Illustrations	984
Regulation 58—Viatical Settlements	989
Labor	
Office of Workers' Compensation—Compliance Penalty (LAC 40:I.109)	991
Forms (LAC 40:I.105)	992
Fraud Penalty; Hearing; Appeal (LAC 40:I.1905)	993
Social Services	
Office of Rehabilitation Services—Policy Manual—Confidentiality and Order of Selection (LAC 67:VII.101)	993
Treasury	
Bond Commission—Reimbursement Contract (LAC 71:III)	993

V. NOTICES OF INTENT

Agriculture and Forestry	
Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission—Definitions; Red River Eradication Zone; Cotton Acreage; and Program Participation (LAC 7:XV.9903, 9914, 9919, and 9921)	996
Office of Agro-Consumer Service, Agriculture Commodities Commission—Fees (LAC 7:XXVII.14728)	997
Civil Service	
Civil Service Commission—Certification of Eligibles; Prohibited Activities	998
Service Rating; Performance Appraisal; and Annual and Sick Leave	999
Economic Development	
Board of Architectural Examiners—Placing of Seal or Stamp (LAC 46:1105)	1000
Renewal Procedure (LAC 46:I.1101)	1001
Division of Economically Disadvantaged—Economically Disadvantaged Business Development (LAC 19:II.Chapters 1-13)	1002
Office of Financial Institutions—Bank Insurance Activities: Sale of Insurance (LAC 10:III.591)	1008
Education	
Board of Elementary and Secondary Education—Bulletin 741—Charter Schools Demonstration Program	1012
Minimum Foundation Program (LAC 28:I.1709)	1013
Environmental Quality	
Office of Air Quality and Radiation Protection, Air Quality Division—Nonattainment New Source Review Procedures (LAC 33:III.504)(AQ146)	1014
Office of the Secretary—Rulemaking Petitions (LAC 33:I.Chapter 9; V.105 and 2515; XV.112)(OS013)	1016
Governor's Office	
Division of Administration, Office of the Commissioner—Conduct of Hearing (LAC 34:I.3103)	1019
Patient's Compensation Fund Oversight Board—General Provisions; Fund Enrollment; Surcharges; and Scope of Coverage (LAC 37:III.Chapters 1, 5, 7 and 9)	1019
Health and Hospitals	
Board of Radiologic Technology Examiners—Definitions; Continuing Education; and Education Accreditation (LAC 46:LXVI.Chapters 9, 12 and 13)	1023
Office of the Secretary, Bureau of Health Services Financing—Aid to Families with Dependent Children (AFDC) and Supplemental Security Income (SSI) Medicaid Programs	1027
Community Care Program—Physician Management Fee	1028

Hospital Prospective Reimbursement Methodology—Rehabilitation Hospitals	1028
Medicaid Eligibility Verification Services (MEVS)	1029
Optional Targeted Case Management—Infants and Toddlers	1031
Professional Services Program—Chiropractic Care Services	1032
Professional Services Program—Physical Medicine Services	1033
Reimbursement Methodology—Long-Term Hospitals	1034
Medical Disclosure Panel—Informed Consent—Anesthesia and Pregnancy; Oral Surgery; Radiation Therapy; Craniotomy; Plastic Surgery and Septoplasty (LAC 48:I.Chapter 23)	1035
Labor	
Office of Employment Security—Postponements, Continuances, Re-openings, and Rehearings (LAC 40:IV.113)	1036
Public Safety and Corrections	
Liquefied Petroleum Gas Commission—Permit Fees (LAC 55:IX.107 and 113)	1036
Revenue and Taxation	
Severance Tax Division—Oilfield Site Restoration Fee (LAC 61:I.5301)	1037
Social Services	
Office of Family Support—AFDC—Alien Eligibility (LAC 67:III.1141 and 1143)	1038
AFDC—Eligibility Requirements; Standard Filing Unit (LAC 67:III.1113 and 1133)	1039
General Administrative Procedures and Food Stamp Program (LAC 67:III.Chapters 1 and 19)	1040
Transportation and Development	
Office of the Secretary—Bridge Toll—Crescent City Connection Exemptions - Law Enforcement Personnel (LAC 70:I.513)	1041
Bridge Toll—Crescent City Connection Exemptions - Students (LAC 70:I.509)	1041
Treasury	
Board of Trustees of the Teachers' Retirement System—Deferred Retirement Option Plan (LAC 58:III)	1042
VI. ADMINISTRATIVE CODE UPDATE	
Cumulative—January - September, 1996	1043
VII. POTPOURRI	
Agriculture and Forestry	
Office of Agricultural and Environmental Sciences, Horticulture Commission—Apiary Public Hearing (LAC 7:XXI.11735)	1044
Office of Animal Health Services, Livestock Sanitary Board—Brucellosis Eradication Public Hearing (LAC 7:XXI.11735)	1044
Environmental Quality	
Office of Air Quality and Radiation Protection—Municipal Solid Waste Landfills—Request for Public Comment	1045
Office of Legal Affairs and Enforcement, Investigations and Regulation Development Division—Semiannual Regulatory Agenda	1045
Governor's Office	
Division of Administration, Community Development Section—Public Hearings—HUD Funded Programs	1045
Health and Hospitals	
Board of Veterinary Medicine—Examination Dates	1046
Natural Resources	
Office of Conservation—Orphaned Oilfield Sites	1047
Social Services	
Office of Community Services—Home Energy Assistance Program—Public Hearing	1048
Office of Family Support—Public Hearing—State Plan for Temporary Assistance for Needy Families Block Grant	1048
Transportation and Development	
Sabine River Compact Administration—Fall Meeting Notice	1049

Executive Orders

EXECUTIVE ORDER MJF 96 - 30

Bond Allocation—Jefferson Parish Mortgage Authority

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1996 (hereafter "the 1996 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1996 Ceiling; and (3) a system of central record keeping for such allocations;

WHEREAS: the Jefferson Home Mortgage Authority has requested an allocation from the 1996 Ceiling to be used in connection with a program (the "program") of financing mortgage loans for first time homebuyers throughout the Parish of Jefferson in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended (the "code"); and

WHEREAS: the Governor has determined that the project serves a crucial need and provides a substantial benefit to the State of Louisiana and the Parish of Jefferson within the meaning of Subsection 4.11 of MJF 96-25;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1996 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$12,500,000	Jefferson Parish Mortgage Authority	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1996, provided that such bonds are delivered to the initial purchasers thereof on or before November 27, 1996.

SECTION 4: Due to the extraordinary benefit to the State of Louisiana served by the granted allocation, to the extent that any provision of this Order conflicts with any of the provisions of MJF 96-25, the provisions of this Order are permitted and shall prevail pursuant to Subsection 4.11 of MJF 96-25.

SECTION 5: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 6: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 7: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of September, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#007

EXECUTIVE ORDER MJF 96 - 31

Bond Allocation—Housing Finance Agency

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1996 (hereafter "the 1996 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1996 Ceiling; and (3) a system of central record keeping for such allocations;

WHEREAS: the Louisiana Housing Finance Agency has requested an allocation from the 1996 Ceiling to be used in connection with a program (the "program") of financing mortgage loans for first time homebuyers throughout the State of Louisiana in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS: the Governor has determined that the project serves a crucial need and provides a substantial benefit to the State of Louisiana within the meaning of Subsection 4.11 of MJF 96-25;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1996 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$30,000,000	Louisiana Housing Finance Agency	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1996, provided that such bonds are delivered to the initial purchasers thereof on or before November 27, 1996.

SECTION 4: Due to the extraordinary benefit to the State of Louisiana served by the granted allocation, to the extent that any provision of this Order conflicts with any of the provisions of MJF 96-25, the provisions of this Order are permitted and shall prevail pursuant to Subsection 4.11 of MJF 96-25.

SECTION 5: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 6: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 7: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of September, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#008

EXECUTIVE ORDER MJF 96 - 32

Bond Allocation—Housing Finance Agency

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1)

a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1996 (hereafter "the 1996 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1996 Ceiling; and (3) a system of central record keeping for such allocations;

WHEREAS: the Louisiana Housing Finance Agency has requested an allocation from the 1996 Ceiling to be used in connection with a elderly assisted care facility, Malta Square at Sacred Heart Project (the "project"); and

WHEREAS: the Governor has determined that the project serves a crucial need and provides a substantial benefit to the State of Louisiana within the meaning of Subsection 4.11 of MJF 96-25;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1996 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$7,300,000	Louisiana Housing Finance Agency	Malta Square at Sacred Heart

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1996, provided that such bonds are delivered to the initial purchasers thereof on or before November 27, 1996.

SECTION 4: Due to the extraordinary benefit to the State of Louisiana served by the granted allocation, to the extent that any provision of this Order conflicts with any of the provisions of MJF 96-25, the provisions of this Order are permitted and shall prevail pursuant to Subsection 4.11 of MJF 96-25.

SECTION 5: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 6: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 7: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of

Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of September, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#009

EXECUTIVE ORDER MJF 96 - 33

Bond Allocation—East Baton Rouge Mortgage Finance Authority

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1996 (hereafter "the 1996 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1996 Ceiling; and (3) a system of central record keeping for such allocations;

WHEREAS: the East Baton Rouge Mortgage Finance Authority has requested an allocation from the 1996 Ceiling to be used in connection with a program (the "Program") of financing mortgage loans for first time homebuyers throughout the Parish of East Baton Rouge in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS: the Governor has determined that the Project serves a crucial need and provides a substantial benefit to the State of Louisiana and the Parish of East Baton Rouge within the meaning of Subsection 4.11 of MJF 96-25;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1996 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$12,500,000	East Baton Rouge Mortgage Finance Authority	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1996, provided that

such bonds are delivered to the initial purchasers thereof on or before November 27, 1996.

SECTION 4: Due to the extraordinary benefit to the State of Louisiana served by the granted allocation, to the extent that any provision of this Order conflicts with any of the provisions of MJF 96-25, the provisions of this Order are permitted and shall prevail pursuant to Subsection 4.11 of MJF 96-25.

SECTION 5: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 6: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 7: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of September, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#010

EXECUTIVE ORDER MJF 96 - 34

Bond Allocation—City of Alexandria

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1996 (hereafter "the 1996 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1996 Ceiling; and (3) a system of central record keeping for such allocations;

WHEREAS: the City of Alexandria has requested an allocation from the 1996 Ceiling to be used in connection with the financing of the acquisition, construction, and installation of an expansion of an existing fabricated aluminum manufacturing facility in the City of Alexandria, Louisiana; and

WHEREAS: the Governor has determined that the Project serves a crucial need and provides a substantial benefit to the State of Louisiana and the City of Alexandria, within the meaning of Subsection 4.11 of MJF 96-25;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1996 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$1,500,000	City of Alexandria State of Louisiana	AFCO Industries, Inc. fabricated aluminum manufacturing facility

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1996, provided that such bonds are delivered to the initial purchasers thereof on or before November 27, 1996.

SECTION 4: Due to the extraordinary benefit to the State of Louisiana served by the granted allocation, to the extent that any provision of this Order conflicts with any of the provisions of MJF 96-25, the provisions of this Order are permitted and shall prevail pursuant to Subsection 4.11 of MJF 96-25.

SECTION 5: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 6: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 7: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of September, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#011

EXECUTIVE ORDER MJF 96 - 35

Bond Allocation—Bastrop Industrial Development Board

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1996 (hereafter "the 1996 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1996 Ceiling; and (3) a system of central record keeping for such allocations;

WHEREAS: the Industrial Development Board of the City of Bastrop, Louisiana, Inc. has requested an allocation from the 1996 Ceiling to be used in connection with a project (the "Project") consisting of acquiring, constructing, and installing certain sewage, solid waste water treatment and/or solid waste disposal facilities at the Louisiana Mill of International Paper Company in Bastrop, Louisiana; and

WHEREAS: the Governor has determined that the Project serves a crucial need and provides a substantial benefit to the State of Louisiana and the City of Bastrop within the meaning of Subsection 4.11 of MJF 96-25;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1996 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$1,000,000	Industrial Development Board of the City of Bastrop, Louisiana	International Paper Co. Inc.

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1996, provided that such bonds are delivered to the initial purchasers thereof on or before November 27, 1996.

SECTION 4: Due to the extraordinary benefit to the State of Louisiana served by the granted allocation, to the extent that any provision of this Order conflicts with any of the provisions of MJF 96-25, the provisions of this Order are permitted and shall prevail pursuant to Subsection 4.11 of MJF 96-25.

SECTION 5: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 6: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 7: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of September, 1996.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#012

EXECUTIVE ORDER MJF 96 - 36

Bond Allocation—Parish of Rapides

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1996 (hereafter "the 1996 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1996 Ceiling; and (3) a system of central record keeping for such allocations;

WHEREAS: the Parish of Rapides has requested an allocation from the 1996 Ceiling to be used in connection with a project (the "Project") consisting of acquiring, constructing, and installing certain solid waste disposal facilities at the Mill of International Paper Company in Pineville, Louisiana; and

WHEREAS: the Governor has determined that the Project serves a crucial need and provides a substantial benefit to the State of Louisiana and the Parish of Rapides within the meaning of Subsection 4.11 of MJF 96-25;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1996 Ceiling as follows:

AMOUNT OF
ALLOCATION
\$7,000,000

NAME OF
ISSUER
Parish of Rapides
State of Louisiana

NAME OF
PROJECT
International Paper Co.
solid waste disposal

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1996, provided that such bonds are delivered to the initial purchasers thereof on or before November 27, 1996.

SECTION 4: Due to the extraordinary benefit to the State of Louisiana served by the granted allocation, to the extent that any provision of this Order conflicts with any of the provisions of MJF 96-25, the provisions of this Order are permitted and shall prevail pursuant to Subsection 4.11 of MJF 96-25.

SECTION 5: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 6: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 7: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of September, 1996.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#013

EXECUTIVE ORDER MJF 96 - 37

Bond Allocation—Parish of Calcasieu, Inc. Industrial Development Board

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond

volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1996 (hereafter "the 1996 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1996 Ceiling; and (3) a system of central record keeping for such allocations;

WHEREAS: the Industrial Development Board of the Parish of Calcasieu, Inc. has requested an allocation from the 1996 Ceiling to be used in connection with the financing of the acquisition, construction, and installation of certain wastewater and sewage treatment and disposal facilities (the "Project") at the existing petroleum refinery facilities of Conoco, Inc. and at the lube oil production facilities being constructed in Calcasieu Parish; and

WHEREAS: the Governor has determined that the Project serves a crucial need and provides a substantial benefit to the State of Louisiana and the Parish of Calcasieu within the meaning of Subsection 4.11 of MJF 96-25;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1996 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$15,500,000	Industrial Development Board of the Parish of Calcasieu, Inc.	Conoco, Inc. or its joint venturer or affiliate waste- water and sewage treatment and disposal facilities

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1996, provided that such bonds are delivered to the initial purchasers thereof on or before November 27, 1996.

SECTION 4: Due to the extraordinary benefit to the State of Louisiana served by the granted allocation, to the extent that any provision of this Order conflicts with any of the provisions of MJF 96-25, the provisions of this Order are permitted and shall prevail pursuant to Subsection 4.11 of MJF 96-25.

SECTION 5: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 6: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 7: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of September, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#014

EXECUTIVE ORDER MJF 96 - 38

Bond Allocation—Parish of Lincoln

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1996 (hereafter "the 1996 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1996 Ceiling; and (3) a system of central record keeping for such allocations;

WHEREAS: the Parish of Lincoln, State of Louisiana has requested an allocation from the 1996 Ceiling to be used in connection with the financing of the acquisition, construction, and installation of certain solid waste disposal facilities (the "Project") at the oriented strand board plant and laminated beam plant being acquired, constructed and installed by Willamette Industries, Inc., near Ruston, in the Parish of Lincoln, State of Louisiana; and

WHEREAS: the Governor has determined that the Project serves a crucial need and provides a substantial benefit to the State of Louisiana and the Parish of Lincoln within the meaning of Subsection 4.11 of MJF 96-25;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1996 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$13,500,000	Parish of Lincoln, State of Louisiana	Willamette Industries, Inc. solid waste disposal facilities

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1996, provided that such bonds are delivered to the initial purchasers thereof on or before November 27, 1996.

SECTION 4: Due to the extraordinary benefit to the State of Louisiana served by the granted allocation, to the extent that any provision of this Order conflicts with any of the provisions of MJF 96-25, the provisions of this Order are permitted and shall prevail pursuant to Subsection 4.11 of MJF 96-25.

SECTION 5: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 6: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 7: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of September, 1996.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#015

EXECUTIVE ORDER MJF 96 - 39

Bond Allocation—Parish of St. Bernard

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1996 (hereafter "the 1996 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1996

Ceiling; and (3) a system of central record keeping for such allocations;

WHEREAS: the Parish of St. Bernard, State of Louisiana has requested an allocation from the 1996 Ceiling to be used in connection with the financing of the acquisition, construction, and installation of certain solid waste disposal, sewage and industrial facilities (the "Project") at Mobil Oil Corporation's Chalmette Refinery located in St. Bernard Parish, Louisiana; and

WHEREAS: the Governor has determined that the Project serves a crucial need and provides a substantial benefit to the State of Louisiana and the Parish of St. Bernard within the meaning of Subsection 4.11 of MJF 96-25;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1996 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$15,500,000	Parish of St. Bernard State of Louisiana	Mobil Oil Corporation solid waste disposal sewage and industrial facilities

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1996, provided that such bonds are delivered to the initial purchasers thereof on or before November 27, 1996.

SECTION 4: Due to the extraordinary benefit to the State of Louisiana served by the granted allocation, to the extent that any provision of this Order conflicts with any of the provisions of MJF 96-25, the provisions of this Order are permitted and shall prevail pursuant to Subsection 4.11 of MJF 96-25.

SECTION 5: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 6: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 7: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of

Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of September, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#016

EXECUTIVE ORDER MJF 96 - 40

Bond Allocation—New Orleans Home Mortgage Authority

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1996 (hereafter "the 1996 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1996 Ceiling; and (3) a system of central record keeping for such allocations;

WHEREAS: the New Orleans Home Mortgage Authority has requested an allocation from the 1996 Ceiling to be used in connection with a program (the "Program") of financing mortgage loans for first time homebuyers throughout the Parish of Orleans in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS: the Governor has determined that the Project serves a crucial need and provides a substantial benefit to the State of Louisiana within the meaning of Subsection 4.11 of MJF 96-25;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1996 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$17,700,000	New Orleans Home Mortgage Authority	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1996, provided that such bonds are delivered to the initial purchasers thereof on or before November 27, 1996.

SECTION 4: Due to the extraordinary benefit to the State of Louisiana served by the granted allocation, to the extent that any provision of this Order conflicts with any of the provisions of MJF 96-25, the provisions of this Order are permitted and shall prevail pursuant to Subsection 4.11 of MJF 96-25.

SECTION 5: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 6: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 7: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of September, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#017

EXECUTIVE ORDER MJF 96 - 41

D.A.R.E. Advisory Council

WHEREAS: the Congress of the United States has enacted the Anti-Drug Abuse Act of 1988, 21 U.S.C.A. §1501, in recognition of the serious problems occurring within the United States due to the increase of drug abuse;

WHEREAS: the Louisiana Commission on Law Enforcement has been created within the Office of the Governor to operate as a forum on drug abuse issues and to coordinate drug abuse projects;

WHEREAS: two-thirds of Louisiana's public, private, and parochial school systems have executed written agreements with law enforcement agencies to implement a Drug Abuse Resistance Education (D.A.R.E.) program; and

WHEREAS: the D.A.R.E. Program is a nationally recognized and copyrighted drug education effort with specific criteria for implementation which requires strict replication of the parent project;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Louisiana D.A.R.E. Advisory Board (hereafter "Board") is re-established and continued within the Executive Department, Office of the Governor.

SECTION 2: The Board shall consist of 13 members who shall be appointed by and serve at the pleasure of the Governor. Membership of the Board shall be composed as follows:

A. two members from the Louisiana Sheriff's Association;

B. two members from the Louisiana Chiefs' of Police Association;

C. two members from the Louisiana Commission on Law Enforcement;

D. the President of the Louisiana D.A.R.E. Officers' Association;

E. a principal of a public school;

F. a teacher in an elementary school;

G. a representative from the Governor's Drug Policy Board; and

H. three members representing community interests.

SECTION 3: The Chair of the Board shall be appointed by the Governor.

SECTION 4: The Board shall develop, promote, monitor and evaluate the D.A.R.E. Program throughout the State of Louisiana, and shall serve as an advisory body to the Louisiana Commission on Law Enforcement regarding the performance of its duties in relation to the D.A.R.E. Program.

SECTION 5: No member of the Board shall receive compensation, a per diem, or reimbursement of personal expenses incurred as a result of the performance of their duties pursuant to this Order.

SECTION 6: All departments, commissions, boards, agencies, and officers of the state or of any political subdivision thereof are authorized and directed to cooperate in implementing the provisions of this Order.

SECTION 7: The provisions of this Order shall be effective upon signature of the Governor and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 20th day of September, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#025

EXECUTIVE ORDER MJF 96 - 42

Statewide Independent Living Council

WHEREAS: the State of Louisiana supports the efforts of its citizens with disabilities to live independently;

WHEREAS: these Louisiana citizens can benefit from specialized services and centers which assist them and promote independent living;

WHEREAS: the federal Rehabilitation Act of 1973, 29 U.S.C.A. §701, et seq., includes provisions for financial assistance to promote independent living; and

WHEREAS: to receive the benefit of such assistance, the State of Louisiana must establish a Statewide Independent Living Council in accordance with federal guidelines, 29 U.S.C.A. §796(d);

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Governor's Statewide Independent Living Council (hereafter "council") shall be re-established and recreated within the Executive Department, Office of the Governor.

SECTION 2: The duties and functions of the council shall be as follows:

(A) jointly develop and sign, in conjunction with the Office of Louisiana Rehabilitation Services within the Department of Social Services, a state plan for independent living services and centers for independent living;

(B) monitor, review, and evaluate implementation of this state plan;

(C) coordinate activities with the State Rehabilitation Council and other councils which address the needs of specific disability populations and issues under federal law;

(D) ensure that all regularly scheduled meetings of the council are open to the public and sufficient advance notice is provided; and

(E) submit periodic reports to the federal government, as required by law, regulation, or rule.

SECTION 3: The members of the council shall be appointed by and serve at the pleasure of the Governor. The voting members of the council shall select a Chair from among its voting membership.

SECTION 4: Members of the council shall be selected from all areas of the state and shall be knowledgeable about Centers for Independent Living and independent living services. The majority of the membership of the council shall be composed of Louisiana citizens with disabilities who represent a broad range of disabilities and who are not employed by a Center for Independent Living or any state agency.

The council shall consist of 21 members, including:

(A) one voting member who is a director of a center for Independent Living selected by the directors of centers for Independent Living located within the state;

(B) four voting members who represent private businesses;

(C) one ex-officio, non-voting member from the Office of Louisiana Rehabilitation Service, Department of Social Services;

(D) 15 members selected from the following groups:

(i) voting members:

(a) representatives from Centers for Independent Living;

(b) representatives who are parents and guardians of individuals with disabilities;

(c) representatives who are advocates of and for individuals with disabilities; and

(d) representatives from organizations providing services for individuals with disabilities;

(ii) ex-officio, non-voting members representing state agencies that provide services for individuals with disabilities.

SECTION 5: Each member of the council shall serve a term of three years. No member may serve more than two consecutive full terms.

SECTION 6: The council shall not be an entity within any state agency, but shall coordinate its activities with the Office of Disability Affairs, within the Executive Department, Office of the Governor. Nonetheless, the council shall follow all rules and regulations of the State of Louisiana, including those concerning purchasing, procurement, hiring, and ethics.

SECTION 7: The majority of the voting membership of the council shall not be composed of individuals who receive compensation, either directly or indirectly, for work performed on behalf of any Independent Living Center.

SECTION 8: The members of the council shall not receive compensation or a per diem for their services or their attendance at meetings. However, contingent upon the availability of funds, actual travel expenses of the members may be reimbursed, in accordance with state and federal guidelines and procedures, and upon the approval of the Commissioner of Administration.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state or of any political subdivision thereof are authorized and directed to cooperate with the council in implementing the provisions of this Order.

SECTION 10: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, rescinded, or terminated by the Governor or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 26th day of September, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#026

EXECUTIVE ORDER MJF 96 - 43

Rehabilitation Advisory Council

WHEREAS: the State of Louisiana provides support to its citizens who have disabilities to assist them in their pursuit of meaningful careers and gainful employment;

WHEREAS: the citizens of the State of Louisiana with disabilities can benefit from specialized vocational rehabilitation services and support;

WHEREAS: the United States Rehabilitation Act of 1973, 29 U.S.C.A. §701, et seq., includes provisions for financial

assistance to promote effective programs of vocational rehabilitation services for individuals with disabilities; and

WHEREAS: to receive the benefit of such assistance, a state must establish a State Rehabilitation Advisory Council in accordance with federal guidelines, 29 U.S.C.A. §725;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Governor's Rehabilitation Advisory Council (hereafter "Council") shall be recreated and re-established within the Department of Social Services.

SECTION 2: The duties and functions of the Council shall be as follows:

(A) prepare a state plan for vocational rehabilitation services for individuals with disabilities;

(B) monitor, review, and evaluate implementation of this plan, including reviewing consumer satisfaction of services rendered;

(C) advise the Office of Louisiana Rehabilitation Services, Department of Social Services, regarding the effectiveness of vocational rehabilitation services provided to individuals with disabilities within the state;

(D) coordinate activities with the Statewide Independent Living Council and with other state councils or agencies which address the needs of specific disability populations and issues under federal law;

(E) ensure that all regularly scheduled meetings of the council are open to the public and sufficient advance notice is provided; and

(F) submit annual reports to the Governor and the federal government.

SECTION 3: The members of the council shall be appointed by and serve at the pleasure of the Governor. The voting members of the council shall select a Chair from among its voting membership.

SECTION 4: Members of the council shall be selected from all areas of the state and shall be knowledgeable about vocational rehabilitation services offered to individuals with disabilities. The majority of the membership of the council shall be composed of Louisiana citizens with disabilities who represent a broad range of disabilities and who are not employed by the Office of Louisiana Rehabilitation Services or any state agency.

The council shall consist of 30 members, including:

(A) 29 voting members selected as follows:

(i) one representative of a parent training and information center;

(ii) one representative from the voting membership of the Statewide Independent Living Council;

(iii) one representative of a client assistance program;

(iv) one vocational rehabilitation counselor with knowledge and experience about vocational rehabilitation programs;

(v) one representative of community rehabilitation program service providers;

(vi) four representatives of business, industry, and labor; and

(vii) 19 members representing the following categories:

(a) disability advocacy groups which represent a cross section of individuals with disabilities;

(b) the parents or guardians of individuals with disabilities who have difficulty representing themselves; and

(c) current or former applicants or recipients of vocational rehabilitation services; and

(B) one ex officio, nonvoting member, who represents the Office of Louisiana Rehabilitation Services, Department of Social Services.

SECTION 5: Each member of the council shall serve a term of three years. No member may serve more than two consecutive full terms.

SECTION 6: The council shall coordinate its activities with the Office of Disability Affairs, within the Executive Department, Office of the Governor. The council shall follow all rules and regulations of the State of Louisiana including those concerning purchasing, procurement, hiring, and ethics.

SECTION 7: The majority of the voting membership of the council shall not be composed of individuals who receive compensation, either directly or indirectly, for work they perform on behalf of any vocational rehabilitation service provider.

SECTION 8: The members of the council shall not receive compensation or a per diem for their services or their attendance at meetings. However, contingent upon the availability of funds, actual travel expenses of the members may be reimbursed in accordance with state and federal guidelines and procedures, and upon the approval of the Commissioner of Administration.

SECTION 10: All departments, commissions, boards, agencies, and officers of the state or of any political subdivision thereof are authorized and directed to cooperate with the council in implementing the provisions of this Order.

SECTION 11: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 26th day of September, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#027

EXECUTIVE ORDER MJF 96 - 44

Drug Control and Violent Crime Policy Board

WHEREAS: incidents of violent crimes and drug abuse are problematic for the State of Louisiana;

WHEREAS: the federal government provides financial assistance to the state to improve the operational effectiveness of their drug and violent crime control efforts; for example, through the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C.A. § 13701 et seq., and the Edward Byrne Memorial Formula Grant Program, 42 U.S.C.A. § 3751 et seq.; and

WHEREAS: the State of Louisiana utilizes a single coordinating board to administer these federal assistance programs, to serve as a communication forum, and to facilitate the coordination of drug abuse and violent crime projects within the state;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Louisiana Drug Control and Violent Crime Policy Board (hereafter "Board") is re-established and continued within the Executive Department, Office of the Governor.

SECTION 2: The Board shall consist of 15 members to be appointed by and serve at the pleasure of the Governor. Membership of the Board shall be composed as follows:

A. three sheriffs, one each from the eastern, the western, and the middle areas of the state;

B. three district attorneys, one each from the eastern, the western, and the middle areas of the state;

C. the superintendent of the Department of Public Safety, or the superintendent's designee;

D. the executive director of the Louisiana Sheriffs' Association, or the executive director's designee;

E. the executive director of the Louisiana District Attorneys' Association, or the executive director's designee;

F. three private citizens and/or former members of the state judiciary who are active in community drug control and prevention, one each from the eastern, the western, and the middle areas of the state; and

G. three chiefs of police, one each from the eastern, the western, and the middle areas of the state.

SECTION 3: The Governor shall select the Chair of the Board from its membership.

SECTION 4: The duties and the functions of the Board shall include, but are not limited to, the following:

(A) to serve as an advisory body to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice;

(B) to develop a statewide Drug Control and Violent Crime Strategy encompassing all components of the criminal justice system; and

(C) to perform any duties and functions requested by the Governor and/or the Louisiana Commission on Law Enforcement and Administration of Criminal Justice.

SECTION 5: The members of the Board shall not receive compensation, or a per diem for their services or attendance at meetings. In addition, the members shall not be reimbursed for any travel or personal expenses incurred as a result of their performance of board duties.

SECTION 6: All departments, commissions, boards, agencies, and officers of the state or of any political subdivision thereof, are authorized and directed to cooperate with the Board in implementing the provisions of this Order.

SECTION 7: The provisions of this Order shall be effective upon signature of the Governor and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 2nd day of October, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#032

EXECUTIVE ORDER MJF 96 - 45

Bond Allocation Extensions

WHEREAS: the Executive Orders numbered MJF 96-30 through 96-40, issued on September 17, 1996, granted bond allocations from the 1996 Ceiling that was established in Executive Order No. MJF 96-25; and

WHEREAS: it is necessary to amend the Executive Orders numbered 96-30 through 96-40 in order to extend the time period in which such bonds can be delivered to initial purchasers;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 3 of each and every Executive Order numbered MJF 96-30 through MJF 96-40 is hereby replaced and amended to provide, as follows:

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 16, 1996.

SECTION 2: Both the contents of the third "Whereas" and the provisions of Section 4 of each and every Executive Order numbered MJF 96-30 through MJF 96-40 are deleted. The provisions of Section 4 shall not be replaced.

SECTION 3: All other sections of Executive Orders numbered MJF 96-30 through 96-40 shall remain in full force and effect, and are not affected by the provisions of this Order.

SECTION 4: The provisions of this Order are effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of

Louisiana, at the Capitol, in the City of Baton Rouge, on this 3rd day of October, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9610#033

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDUM

Office of the Governor
Division of Administration
Office of the Commissioner

Contracts for Maintenance, Equipment and
Services—PPM No. 51 (LAC 4:V.Chapter 17)

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 17. Contracts for Maintenance, Equipment and Services—PPM Number 51

§1701. Introduction

A. This Policy and Procedure Memorandum revises Policy and Procedure Memorandum Number 51 that was promulgated February 1983.

B. By the authority of R.S. 39:1561, Part II. Purchasing Organization, Subpart A. Division of Administration, §1561.B it states: "The Commissioner shall consider and decide matters of policy within the provisions of this Chapter including those referred to him by the State Director of Purchasing."

C. Therefore, pursuant to the above authority in order to discharge my duty and responsibility as directed by the above quoted Section of the state statutes, it is hereby ordered that all State of Louisiana agencies shall abide by the following policy and procedures except where specific authority has been delegated in writing by the Commissioner of Administration.

§1703. Purpose and Scope

The policies and procedures contained herein shall apply to all agencies of the state government as required by the Louisiana Procurement Code, R.S. 39:1551 et seq., the current

Executive Order of the Governor for small purchases, and the official rules and regulations of the Purchasing Section, Division of Administration as contained in the State Purchasing Manual.

§1705. Definition of Contractual Services

Contractual services include all contracts or other documents for maintenance, service, and the lease and rental of equipment of any state agency under the jurisdiction of the Division of Administration.

A. - B.13. Repealed

§1707. Procedures

A. In accordance with R.S. 39:1561.B, all agencies of the state government are hereby delegated the authority to purchase contractual services up to their delegation of authority, as issued by the Director of State Purchasing to your agency. All purchases for contractual services as defined above must be made in accordance with the current Governor's Executive Order for small purchases and purchasing rules and regulations.

B. Agencies are authorized to prepay preventive maintenance contracts on equipment only when a brand name statewide contract exists that provides for at least a 10 percent savings over paying on a monthly basis, or a competitive bid is requested that provides for preventive maintenance on a monthly basis and on a prepaid basis. A savings of 10 percent or more is required to award on a prepaid basis.

C. Any questions concerning this matter should be directed to the Purchasing Section of the Division of Administration.

D. - G. Repealed.

Mark C. Drennen
Commissioner

9610#027

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Livestock Sanitary Board

Diseases of Animals—Equine Infectious Anemia Eradication Program (LAC 7:XXI.Chapter 117)

This Declaration of Emergency and adoption of rule by emergency process is in accordance with and under the authority of the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 3:2093, and R.S. 3:2095.

The Livestock Sanitary Board has been advised of allegations that legal defects exist in the equine infectious anemia eradication program. The Board has concluded that in the event the alleged legal defects are found to exist, the equine infectious anemia eradication program would be interrupted. The Board has and does now find that the

interruption to the equine infectious anemia eradication program will occur. The Board hereby concludes that the resultant interruption in the equine infectious anemia eradication program would cause imminent peril to public health, safety, and welfare of the citizens of this state in that a major disease eradication program would be compromised. In order to insure that the equine infectious anemia eradication program remains in place and uninterrupted pending final adoption of an appropriate final rule through the normal promulgation process, the Board declares an emergency to exist and adopts by emergency process the following rule setting forth the equine infectious anemia eradication program.

The effective date of this emergency rule is October 25, 1996, and it shall be in effect for 120 days or until an appropriate final rule takes effect through the normal adoption and promulgation process, whichever is first.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter A. General Provisions

§11701. Definitions

* * *

Approved Livestock Auction Market—a place where livestock are assembled for sale, which is approved by the USDA to receive livestock restricted due to exposure to certain diseases and has a permit to operate issued by the Louisiana Livestock Sanitary Board.

* * *

Direct to Slaughter—the shipment of livestock from the premises of origin directly to a slaughter establishment without diversion to assembly points, such as auctions, public stockyards and feedlots.

Equine Infectious Anemia—an infectious disease of equine caused by a lentivirus characterized by intermittent fever, depression, weakness, edema, anemia and sometimes death. The disease is also known as Swamp Fever and is referred to hereafter and sometimes as EIA.

* * *

Form VS 1-27—a form which must be secured from state or federal personnel before livestock may be moved from the premises. This document will be valid for 15 days from the date of issuance.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 12:289 (May 1980), LR 12:498 (August 1986), LR 14:219 (April 1988), LR 15:812 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 22:

§11709. Livestock Auction Market Requirements

* * *

E. Duties of an Auction Veterinarian and/or State-Federal Personnel

1. - 8. ...

9. To draw blood samples on all equine for testing for Equine Infectious Anemia unless the equine is presented for

sale with a record of an official test for EIA conducted within six months.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:662, R.S. 3:665, R.S. 3:2221 and R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:233 (March 1985), amended LR 11:615 (June 1985), LR 22:

Subchapter C. Equine

§11759. General Requirements Governing the

Admission of Equine

All equine imported into the state shall meet the general requirements of LAC 7:XXI.11705 and the following specific requirements:

All equine moving into Louisiana shall be accompanied by a record of a negative official test for Equine Infectious Anemia (EIA) conducted within the past 12 months. Equine consigned direct to slaughter to an approved slaughter establishment for immediate slaughter or to an approved livestock auction market are exempt from the requirement. The official test shall be conducted by an approved laboratory. The name of the laboratory, the case number and the date of the official test shall appear on the health certificate as required in LAC 7:XXI.11761.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:242 (March 1985), amended LR 11:615 (June 1985), LR 14:222 (April 1988), LR 20:405 (April, 1994), LR 22:

§11761. Admission of Equine to Fairs, Livestock Shows, Breeders Association Sales, Rodeos and Racetracks

All equine consigned to fairgrounds, livestock show grounds, sale grounds, rodeos and racetracks must meet the general requirements of LAC 7:XXI.11707 and the following specific requirements:

1. It is recommended that all owners have their equine vaccinated against equine encephalomyelitis with bivalent (eastern and western type) vaccine within 12 months prior to entry.

2. Representatives of the Livestock Sanitary Board may inspect equine at the shows periodically, and any equine showing evidence of a contagious or infectious disease shall be isolated and/or removed from the show.

3. All equine moving into the state of Louisiana to fairs, livestock shows, breeder's association sales, rodeos, racetracks or any other concentration point, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months. The official test shall be conducted at an approved laboratory and the name of the laboratory, the case number, and the date of the official test shall appear on the record.

4. All equine moving within the state to fairs, livestock shows, breeder's association sales, rodeos, racetracks, or to any other concentration point shall be accompanied by a record of a negative official test for EIA conducted within the past 12 months. The official test shall be conducted by an approved laboratory and the name of the laboratory, the case

number, and the date of the test shall appear on the record of the test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:242 (March 1985), amended LR 11:615 (June 1985), LR 14:222 (April 1988), LR 20:405 (April 1994), LR 22:

§11763. Movement of Equine in Louisiana by Livestock Dealers

All equine which are sold or offered for sale by livestock dealers, must meet the general requirements of LAC 7:XXI.11709 and the following specific requirements:

All equine sold or offered for sale by permitted Louisiana livestock dealers, must be accompanied by a record of a negative official test for Equine Infectious Anemia, conducted at an approved laboratory, within the past six months. The record shall include the name of the laboratory, the case number and the date of the official test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:502.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 14:223 (April 1988), LR 20:406 (April 1994), LR 22:

§11765. Equine Infectious Anemia and Livestock Auction Market Requirements

A. Identification. Prior to an official test for Equine Infectious Anemia (EIA), all equine shall be individually and permanently identified by one of the following means:

1. implanted electronic identification transponder with individual number;
2. individual lip tattoo;
3. individual hot brand or freeze brand.

B. Equine Required to be Tested

1. All equine moving into the state of Louisiana for any purpose other than direct to slaughter for immediate slaughter, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months. The official test shall be conducted by an approved laboratory. The name of the laboratory, the case number, and the date of the official test shall appear on the health certificate, as required in LAC 7:XXI.11761.

2. All equine moving within the state to fairs, livestock shows, breeders association sales, rodeos, racetracks, or to any other concentration point, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months. The official test shall be conducted by an approved laboratory and the name of the laboratory, the case number, and the date of the test shall appear on the record of the official test.

3. All equine sold or purchased in Louisiana shall have been officially tested negative for EIA within six months of the date of the sale or shall be officially tested negative for EIA at the time of sale or purchase. The official test shall be conducted at an approved laboratory. A record of the official test shall accompany the horse at the time of the sale or purchase and the name of the laboratory, the case number, and the date of the test shall appear on the record of the official test.

4.a. All equine offered for sale at Louisiana livestock auction markets must be accompanied by a record of a negative official test for EIA conducted by an approved laboratory within six months of the date of the sale, except as provided in this Subsection hereof.

Untested equine arriving at an approved livestock auction market shall have a blood sample drawn for official EIA testing. A fee of no more than \$18 shall be collected from the seller and paid to the testing veterinarian by the auction market. The buyer of the equine shall be charged a \$5 identification fee which will be collected by the auction market before the equine leaves the auction market. This fee will be forwarded to the Louisiana Department of Agriculture and Forestry. After the blood sample is obtained and the fee paid, untested horses may move to the purchaser's premises under a quarantine issued by Louisiana Livestock Sanitary Board personnel until results of the official tests are received. The seller of any equine whose gross proceeds from the sale are less than \$50 will not be required to pay the fee for an official EIA test. If no veterinarian is available for official EIA testing of equine at a Louisiana livestock auction market, the testing shall be done by Louisiana Livestock Sanitary Board personnel.

b. Authorized buyers for approved slaughter establishments may request that any equine they have purchased at an approved livestock auction market be restricted to slaughter. After the request, such equine shall be branded with the letter "S" on the left shoulder prior to leaving the auction market and shall be issued a VS Form 1-27 permit. The branding and permit issuing shall be done by Louisiana Livestock Sanitary Board personnel.

5. All equine domiciled within the state of Louisiana shall be maintained with a current negative official test for Equine Infectious Anemia. A current negative official test is a written result of a test conducted by an approved laboratory where said official test was performed not more than 12 months earlier. An equine is domiciled within the state when the equine has been pastured, stabled, housed, or kept in any fashion in the state more than 30 consecutive days. Written proof of a current negative official test shall be made available in the form of negative results from an approved laboratory upon request by an authorized representative of the Louisiana Livestock Sanitary Board.

C. Identification and Quarantining of Equine Positive to the Official EIA Test

1. With the exception of the equine stabled at a racetrack regulated by the Louisiana State Racing Commission, all equine testing positive to the official test for EIA shall be quarantined to the owners premises and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved livestock auction market or to an approved slaughter establishment. The owner or trainer of all equine stabled at a racetrack regulated by the Louisiana State Racing Commission testing

positive to an official EIA test shall be notified immediately by the testing veterinarian, or by racetrack officials, or by Louisiana Livestock Sanitary Board personnel and the equine testing positive shall be removed from the racetrack premises immediately. Exceptions are:

a. Upon request by the owner, any female equine testing positive to the official test for EIA that is at least 270 days pregnant or has a nursing foal no more than 120 days of age at her side may be quarantined to the owner's premises and kept at least 200 yards away from any other equine. The female equine shall be identified with a "72A" brand at least three inches in height on the left shoulder. The female equine may remain in quarantine until her foal dies or reaches an age of 120 days at which time the female equine shall be destroyed or sold for immediate slaughter within 20 days. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the female equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved livestock auction market or to an approved slaughter establishment.

b. Any foal kept in quarantine with its EIA positive dam shall be officially tested for EIA no later than 90 days after it is weaned.

c. Any equine testing positive to the official EIA test prior to February 1, 1994, may be quarantined to the owner's premises and kept at least two hundred yards away from any other equine. This equine shall be identified with a "72A" brand at least 3 inches in height on the left shoulder. If the EIA positive equine is sold, it must be sold for slaughter and a VS Form 1-27 permit must be issued by Livestock Sanitary Board personnel to move the EIA positive equine from the owner's premises to slaughter. If the EIA positive equine is destroyed or dies, verification of said destruction or death by written and signed statement must be furnished to the office of the state veterinarian.

d. Any EIA positive equine found in violation of this quarantine shall be required to be sold for slaughter or destroyed within 20 days.

2. All equine stabled at a racetrack regulated by the Louisiana State Racing Commission, testing positive to the official EIA test and immediately removed from the racetrack, shall be quarantined to the premises to which they are moved and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved livestock auction market or to an approved slaughter establishment.

3. With the exception of the equine stabled at a racetrack regulated by the Louisiana State Racing Commission, the following shall be quarantined and officially tested for EIA no sooner than 30 days after the positive equine has been removed:

a. all equine on the same premises as an equine testing positive to the official EIA test;

b. all equine on all premises within 200 yards of the premises of the equine testing positive to the official EIA test; and

c. all equine which have been on these aforementioned premises within the past 30 days at the time the equine which is positive to the official EIA test was tested.

4. All equine stabled at a racetrack regulated by the Louisiana State Racing Commission which are stabled in the same barn or in a directly adjacent barn of an equine which tests positive to the official EIA test shall be quarantined until the positive equine is removed and all other horses in the aforementioned barns are tested negative to the official EIA test.

5. Equine which are required to be officially tested for EIA as a result of being quarantined due to the circumstances described in §11765.C.3-4 may be tested by an accredited veterinarian chosen by the owner or by a state-employed veterinarian if requested by the owner of the quarantined equine. In the event that the official testing for EIA is done by a state-employed veterinarian, the record will not be made available to the owner.

6. Equine positive to the official test for EIA shall be identified with a "72A" brand on the left shoulder at least 3 inches in height, by Louisiana Livestock Sanitary Board personnel. Equine positive to the official test for EIA will be retested prior to identification by branding upon request by the owner, by Louisiana Livestock Sanitary Board personnel and the blood sample submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for confirmation.

D. Collection and Submission of Blood Samples

1. All blood samples for official EIA testing must be drawn by an accredited veterinarian and submitted to either an approved laboratory or the Louisiana Veterinary Medical Diagnostic Laboratory as provided herein. The seller of any equine which sells at an approved livestock auction market in which the gross proceeds from the sale are less than \$50 may request that the blood sample be drawn by Louisiana Livestock Sanitary Board personnel.

2. Blood samples for official EIA testing shall be accompanied by a VS Form 10-11, Equine Infectious Anemia Laboratory Test Report, with completed information as to the equine owner's name, address, telephone number, and permanent individual identification of the equine. The VS Form 10-11 shall be considered the official record for all official EIA tests conducted in Louisiana.

3. Only serum samples in sterile tubes shall be accepted for testing.

4. Blood samples drawn for EIA testing at Louisiana livestock auction markets and blood samples drawn for EIA testing by Louisiana Livestock Sanitary Board personnel shall be submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for testing.

E. Testing of Blood Samples Collected

1. Only laboratories approved by the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, shall be authorized to conduct the official test for EIA in Louisiana and such laboratories

must also receive approval by the Louisiana Livestock Sanitary Board.

2. Approved laboratories shall submit the original (white copy) of each VS Form 10-11 at the end of each week to the Louisiana Livestock Sanitary Board office.

3. Approved laboratories may charge a fee to the accredited veterinarian for conducting the official test.

F. Requirements for a permit for the operation of an Equine Quarantine Holding Area

1. Any buyer desiring to operate an equine quarantine holding area must file an application for approval of the facility on forms to be provided by the Louisiana Livestock Sanitary Board.

2. The facility to be operated as an equine quarantine holding area, must have an area where equine testing positive to the official EIA test and/or "S" branded horses are kept and where such horses are separated by at least 440 yards from all other horses.

3. The facility must be approved by the Louisiana Livestock Sanitary Board in an inspection of the premises prior to the issuance of the permit.

4. The buyer desiring to operate an equine quarantine holding area, must agree, in writing, to comply with the rules and regulations of the Louisiana Livestock Sanitary Board.

5. No other equine except equine consigned for slaughter, shall be kept in an equine quarantine holding area.

6. No equine shall be kept in the equine quarantine holding area longer than 60 days.

7. All permits must be renewed annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:243 (March 1955), amended LR 11:615 (June 1955), LR 14:223 (April 1988), LR 14:697 (October 1988), LR 20:406 (April 1994), LR 20:1257 (November 1994), LR 22:

§11766. Equine Infectious Anemia Testing Laboratory Requirements

A. No person shall operate an Equine Infectious Anemia testing laboratory without first obtaining approval from the Louisiana Livestock Sanitary Board.

B. Conditions for Approving an Equine Infectious Anemia Testing Laboratory

1. The person must submit an application for approval to the office of the state veterinarian.

2. An inspection of the facility must be made by someone representing the office of the state veterinarian and who shall submit a report to the Louisiana Livestock Sanitary Board indicating whether or not the person applying for an Equine Infectious Anemia testing laboratory approval has the facilities and equipment which are called for in United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

3. The applicant must agree, in writing, to operate the laboratory in conformity with the requirements of the regulation and United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

4. The applicant must show the Board that there is a need for the laboratory.

5. If the application is approved by the Louisiana Livestock Sanitary Board, the applicant will proceed with training, examination, and United States Department of Agriculture laboratory visitation.

6. Laboratory check test results shall be provided to the state veterinarian for final approval.

7. All Equine Infectious Anemia testing laboratories which have been approved by the United States Department of Agriculture, prior to the adoption of this regulation, shall be automatically approved at the time this regulation goes into effect.

C Conditions for Maintaining Equine Infectious Anemia Testing Laboratory Approval

1. Laboratories must maintain a work log clearly identifying each individual sample and tests results, which must be available for inspection, for a period of 18 months from the date of the test.

2. Laboratories must maintain on file and make available for inspection, a copy of all submitting forms for a period of 18 months.

3. Laboratories must continually meet all the requirements of United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

4. Samples shall be periodically collected and laboratories periodically inspected without prior notification.

5. Laboratories shall report, immediately, by telephone or telephonic facsimile, all positive results to the official test for EIA to the state veterinarian's office.

6. The state veterinarian shall renew the approval in January of each year, as long as laboratories maintain the standards required by this regulation and United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

D. Cancellation of Equine Infectious Anemia Testing Laboratory Approval. An Equine Infectious Anemia testing laboratory may have its approval canceled if the Louisiana Livestock Sanitary Board finds, at a public hearing, that the laboratory has failed to meet the requirements of this regulation or has falsified its records or reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 14:698 (October 1988), amended LR 20:408 (April 1994), LR 22:

Bob Odom
Commissioner

9610#004

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1706—Exceptional Children

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an

emergency rule, Bulletin 1706, regulations for implementation of the Exceptional Children's Act. Readoption of the emergency rule is necessary in order to continue the federally required changes until they are finalized as a rule. The effective date of this emergency rule is October 29, 1996. It will remain in effect for 120 days or until finalized as a rule, whichever occurs first.

Emergency adoption is necessary because the Office of Special Education Programs in the U.S. Department of Education has been assured that these regulations would be in effect and enforceable by July 1, 1994. This is required in order for the Louisiana State Plan for Special Education to be approved and Part B dollars to be released to Louisiana.

Bulletin 1706 may be viewed in its entirety in the Office of the State Register, Capitol Annex, Room 512, 1051 North Third Street, Baton Rouge, LA; Office of Special Educational Services; State Department of Education; or in the Office of the State Board of Elementary and Secondary Education, located on the first floor of the Education Building in Baton Rouge, LA.

Weegie Peabody
Executive Director

9610#036

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1868—Personnel Manual (LAC 28:I.922)

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an emergency rule, Revised Bulletin 1868, BESE Personnel Manual. Revisions to the manual were developed as a result of federal and state mandates, board action, or reworded for clarification as a result of using the manual. Bulletin 1868 is being readopted as an emergency rule, effective October 29, 1996, in order to continue the policies until finalized as a rule.

Copies of this bulletin have been provided to all entities under the jurisdiction of the Board of Elementary and Secondary Education and listed below:

1. each technical institute;
2. BESE's special schools - Louisiana School for the Deaf, Louisiana School for the Visually Impaired, Louisiana Special Education Center;
3. each site operated by Special School District Number 1;
4. Louisiana Association of Educators and Louisiana Federation of Teachers.

Bulletin 1868, BESE Personnel Manual, may be seen in its entirety in the Office of the State Register located on the fifth floor of the Capitol Annex; in the Office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge; or in the Office of Vocational Education or the Office of Special School District Number 1, both located in the State Department of Education.

Bulletin 1868 is referenced in LAC 28:I.922 and amended as stated below:

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§922. Personnel Policies**

A. Bulletin 1868

1. Revised Bulletin 1868, Personnel Manual of the State Board of Elementary and Secondary Education, is adopted by the Board. Policies in this bulletin apply to personnel under the jurisdiction of the state board in the Board Special Schools; in the entities comprising Special School District Number 1; and in entities in the vocational-technical system, exclusive of the assistant superintendent for Vocational Education and related state department staff.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:7(10), R.S. 17:81.4, R.S. 17:1941-1956; R.S. 17:1993.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 16:297 (April 1990), amended LR 16:957 (November 1990), LR 22:

(It should be noted that the clause "exclusive of the central office staff" which appeared after Special School District Number 1 has been eliminated from the bulletin. The salary schedule for technical institutes has been deleted from the bulletin.)

Weegie Peabody
Executive Director

9610#037

DECLARATION OF EMERGENCY

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Solid Waste Division**

**Waste Tire Priority System
(LAC 33:VII.Chapter 105) (SW021E1)**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under authority of R.S. 30:2011, the Secretary of the Department of Environmental Quality declares that an emergency action is necessary to ensure efficient management of promiscuous/unauthorized waste tire piles. Waste tires that are not processed in accordance with LAC 33:VII.10501 et seq. create environmental and health-related problems and pose a significant threat to the safety of the community should a fire occur.

It is necessary for the DEQ to adopt this emergency rule because the present regulations prevent the Department from rapid response to tire piles that pose an immediate environmental threat. The emergency rule will accomplish a priority system that will continuously update the prioritization of sites throughout the year. The previous priority system established a list that could not be updated to include those sites that were potentially more dangerous or more of a

nuisance. The emergency rule will also add proximity to major highways and hospitals and nursing homes as a factor in the prioritization system.

This emergency rule is effective on October 3, 1996, and shall remain in effect for the maximum of 120 days or until a final rule is promulgated, whichever occurs first.

**Title 33
ENVIRONMENTAL QUALITY**

Part VII. Solid Waste

Subpart 2. Recycling

Chapter 105. Waste Tires

§10505. Definitions

The following words, terms and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

* * *

[See Prior Text]

Major Highway—all asphaltic concrete and concrete interstate and intrastate highways and roads maintained by the United States government or Louisiana state government, or both, or any agencies or departments thereof.

* * *

[See Prior Text]

Marketing—the selling and transferring of waste tires or waste tire material for recycling and/or beneficial use or reuse.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:

§10536. Cleanup of Promiscuous/Unauthorized Tire Piles

A. Upon promulgation of these regulations, the administrative authority may issue agreements for cleanup of promiscuous/unauthorized tire piles. The number of agreements issued each year shall be determined based on the availability of funds in the Waste Tire Management Fund that are designated for promiscuous/unauthorized tire pile cleanup. Any such agreements will designate specific eligible sites and the Department will monitor the cleanup activities, which shall be made in accordance with the standards and responsibilities outlined in the Solid Waste Regulations, LAC 33:VII. Any such agreements shall stipulate a maximum amount of total allowable costs that shall be paid from the Waste Tire Management Fund. These monies shall not be applied to indirect costs and other unallowable costs which include but are not limited to, administrative costs, consulting fees, or legal fees. Furthermore, they shall not be applied to reclamation efforts or cleanup costs associated with other types of contaminants which may be detected during the remediation process. Rather, these funds shall be applied to direct costs such as labor, transportation, processing, and disposal costs of the waste tires.

B. In order to apply for and receive funding for promiscuous/unauthorized tire site cleanup, local governments must provide the administrative authority with

promiscuous/unauthorized tire site information. This information includes, but is not limited to, accurate site location, number of tires on site, visual report on site with photographs and proximity to residences, schools, hospitals and/or nursing homes, and major highways. Such information will be submitted using forms available from the administrative authority.

C. Promiscuous/unauthorized tire piles shall be chosen for cleanup based on their placement on the waste tire priority cleanup list. Point values will be assigned in accordance with the Waste Tire Management Fund Prioritization System located in Appendix B. These ranking criteria were developed in consideration of threat to human health, threat of damage to surrounding property, and adverse impact on the environment.

* * *

[See Prior Text in D]

E. Waste tires may not be removed from promiscuous/unauthorized waste tire piles without prior approval of the administrative authority.

F. The administrative authority will seek reimbursement from all responsible parties for any waste tire cleanup costs incurred by the state by any method allowed by law, provided same is practicable and cost effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:

Appendix B

Waste Tire Management Fund Prioritization System

Each waste tire site for which cleanup funds are solicited will be ranked according to the point system described below. The total number of points possible for any one site is 145 points. The points shall be allocated according to the following criteria:

I. Approximate Number of Tires in the Pile. This figure shall be an estimate by the Department.

Number of Tires in Pile	Point Value
>1,000,000	50
250,001 - 1,000,000	40
100,001 - 250,000	30
50,001 - 100,000	20
<50,000	10

II. Proximity to Nearest Schools. If a school is located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

Proximity to Nearest School	Point Value
School within 2 mile radius	25
School within 4 mile radius	17
School within 6 mile radius	9

III. Proximity to Residences. If 50 or more residences are located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

Proximity to 50+ Residences	Point Value
50 or more within 2 mile radius	25
50 or more within 4 mile radius	17
50 or more within 6 mile radius	9

IV. Proximity to Hospitals and/or Nursing Homes. If a hospital and/or nursing home is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 25.

Proximity to Hospital and/or Nursing Home	Point Value
Hospital and/or nursing home within 2 mile radius	25
Hospital and/or nursing home within 4 mile radius	17
Hospital and/or nursing home within 6 mile radius	9

V. Proximity to Major Highways. If a major highway is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 20.

Proximity to Major Highway	Point Value
Major highway within ¼ mile radius	20
Major highway within ½ mile radius	10

J. Dale Givens
Secretary

9610#023

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Office of the Commissioner

Conduct of Hearing (LAC 34:I.3103)

The Division of Administration, Office of the Commissioner, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) in order to amend LAC 34:I.3103 so that the said rule will be in conformity with law, which emergency rule will be effective October 1, 1996 and remain in effect for 120 days or until finalized as a rule, whichever comes first.

Acts 1995, Number 739 enacted LSA-R.S. 49:991, et seq., and created the Division of Administrative Law within the Department of State Civil Service. Pursuant to the act, more specifically LSA-R.S. 49:992(E), the Division of Administrative Law was given administrative jurisdiction of

all "adjudications", as defined in the Administrative Procedure Act. This transfer of jurisdiction in procurement matters from the Office of State Purchasing to the Division of Administrative Law renders LAC 34:I, Chapter 31 meaningless in its current form. This Chapter of the LAC contained the Conduct of Hearing Rules used by the Office of State Purchasing prior to the October 1, 1996 transfer of adjudications to the Division of Administrative Law. The following proposed changes to LAC 34:I.3103 is designed to accommodate the change in law by removing the applicability of the Conduct of Hearing Rules to the Office of State Purchasing.

Without this emergency action the Office of State Purchasing will be subject to rules for hearings which it is prohibited by law from having. LAC 34:I.3103 is therefore amended as follows:

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part I. Purchasing

Chapter 31. Conduct of Hearing-Louisiana Procurement Code

§3103. Application

The following rules shall only apply to hearings held by boards of higher education and institutions under their jurisdiction in accordance with Sections 1601, 1671, 1672, and 1673 of Title 39 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 9:210 (April 1983), amended LR 23:

Edgar C. Jordan
Assistant Commissioner

9610#022

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Aid to Families with Dependent Children and Supplemental Security Income—Medicaid Programs

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act, 42 USCA 1396a et seq. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has provided coverage for the Aid to Families with Dependent Children-Medicaid, Supplemental Security Income - Medicaid (SSI-M)

under the Medicaid Program. The AFDC-M and SSI-M Program include those individuals who would meet categorical eligibility if they were to pursue eligibility for AFDC cash assistance and Supplemental Security Income cash assistance. Coverage for both the AFDC-M and SSI-M eligibility categories is optional under Title XIX of the Social Security Act Section 1902(a)(10) and 42 CFR Subpart C Section 435.210. The Department has determined it necessary to discontinue coverage for these groups in order to avoid a budget deficit in the medical assistance programs.

Emergency Rule

Effective for dates of services October 29, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates coverage for the optional eligibility categories, Aid to Families with Dependent Children-Medicaid and Supplemental Security Income - Medicaid, as allowed by Title XIX of the Social Security Act Section 1902(a)(10) and 42 CFR Subpart C Section 435.210.

Bobby P. Jindal
Secretary

9610#044

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Case Management Services—Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing reimburses optional targeted case management services for the following specific population groups:

- 1) Infants and toddlers with special needs;
- 2) high-risk pregnant women (limited to the metropolitan New Orleans area);
- 3) HIV infected individuals;
- 4) persons in Home and Community-Based Waiver Program who receive case management services separate from their waiver services.

The Department adopted emergency rules which enhanced program requirements by setting uniform standards for case management services delivered to the above-referenced populations and specified the reimbursement methodology based on the provision of a 15-minute unit of service for the on-going services component of case management services. These rules were initially adopted effective July 22, 1994 and

August 13, 1994 (*Louisiana Register*, Volume 20, Numbers 6 and 7) and continued through subsequent emergency rulemaking. A revised methodology was implemented through emergency rulemaking effective October 1, 1995 (*Louisiana Register*, Volume 21, Number 10 which included a monthly reimbursement rate for both components of case management services, the initial assessment/service plan development and the ongoing services.

Monthly reimbursement rates were assigned for each population group based upon minimum standards for service delivery for each of these groups.

Effective March 1, 1996 the Department adopted an emergency rule (*Louisiana Register*, Volume 22, Number 3) which provided for the payment of a one-hour minimum of service delivery and additional 15-minute incremental units up to a cap of the monthly rate, once the initial one-hour service minimum is met. The June 11, 1996 emergency rule (*Louisiana Register*, Volume 22, Number 6) continued the flat rate methodology and the subsequent modification of this methodology as cited above. Adoption of the following emergency rule continues the modified flat rate reimbursement methodology of the June 11, 1996 emergency rule and the program reductions implemented this state fiscal year (*Louisiana Register*, Volume 22, Number 6, pages 556 and 574). This action is necessary to avoid a budget deficit in the medical assistance programs or the potential of any federal penalties or sanctions.

Emergency Rule

Effective for dates of service October 9, 1996 and thereafter the Department of Health and Hospital, Bureau of Health Services Financing adopts the following minimum program standards for the reimbursement of optional targeted and waiver case management services provided to:

- 1) infants and toddlers with special needs;
- 2) high-risk pregnant women (limited to the metropolitan New Orleans area);
- 3) HIV infected individuals;
- 4) persons in Home and Community-Based Services Waiver Program who receive case management services separate from their waiver services.

These regulations are in addition to the regulations contained in the rule entitled Case Management Services for Optional Targeted Population Groups and Waiver Programs published in the July 20, 1996 issue of the *Louisiana Register*, Volume 22, Number 7.

I. General Provisions

A. All reimbursement for optional targeted and waiver case management services shall be made in accordance with all applicable federal and state regulations. Providers shall not bill for failed attempts to make contact with either consumers or collaterals.

B. The reimbursement rate for optional targeted and waiver case management services is a monthly rate for the provision of mandated monthly minimum services. It is not a capitated rate. Interim billing of one hour and additional 15-minute increments is permitted up the monthly rate. Interim billing for case management services for Elderly Waiver, MR/DD Waiver and Infants and Toddlers must meet the following criteria for billing and cannot occur prior to

providing at least one 15- minute continuous face-to-face encounter in the 30-day cycle and:

1. completion of at least 60 minutes of case management services;
2. additional 15-minute periods of services provided in a 30-day cycle can be billed only after the first hour and the face-to-face encounter has been provided.

C. Hour or 15-minute codes cannot be accumulated across 30-day cycles and must count anew for each cycle or authorized period if less.

Service	Hour Rate	Max Units	15 Min Rate	Max Units	Max Mo Payment
MR/DD Waiver	\$49.00	1	\$12.55	8	\$147
Elderly Waiver	\$49.50	1	\$12.38	4	\$ 99
Infants and Toddlers with Special Needs	\$66.50	1	\$16.63	4	\$133
HIV Infected Individuals					\$ 99
High Risk Pregnant Women (On-going Services)					\$ 57
High Risk Pregnant Women Assessment Only—Max Pay					\$130

D. Billed case management services shall be monitored through the use of provider record review, consumer survey for verification of services provision and quality of service, and verification with collaterals of contacts made on behalf of the recipient. Any situation involving fraud and/or abuse in the provision of case management services will be referred to the SURS Unit for investigation. A subsequent referral will be made to the State Attorney General's Medicaid Fraud Control Unit by the SURS Unit if a criminal investigation is warranted.

E. The following Minimum Program Standards are required for the reimbursement of Case Management Services

1. Mentally Retarded/Developmentally Disabled Individuals in the MRDD Waiver Program

a. A minimum of three hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. The three hours must include one continuous 15-minute face-to-face contact with the recipient in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up/monitoring. Two home visits are required in a six-month period. Service provider records for MR/DD waiver participants must be monitored by the case management agency every 60 days.

b. Services shall be authorized for a maximum three-month time period. All services must be documented on the MRCAMIS service log and be entered into MRCAMIS. Weekly submission of MRCAMIS data is required.

c. The procedure codes applicable to case management services for the MR/DD population are Z0192 (hourly code) and Z1192 (15-minute code) for waiver participants. The maximum monthly payment rate is \$147 for the MR/DD population.

2. Infants and Toddlers with Special Needs

a. A minimum of two hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee.

The two hours must include one continuous 15-minute face-to-face contact with the recipient in addition to case management activities such as assessment/service plan development/update, linkage to services and follow-up/monitoring. Two home visits are required in a six-month period. Service provider records for MR/DD waiver participants must be monitored by the case management agency every 60 days.

b. Services shall be authorized for a maximum three-month time period. All services must be documented on the MRCAMIS service log and be entered into MRCAMIS. Weekly submissions of MRCAMIS data are required.

c. The procedure codes applicable to case management services for the infants and toddler population are Z0194 (hourly code) and Z1194 (15-minute code) for MR/DD waiver participants and Z0193 (hourly code) and Z1193 (15-minute code) for non-waiver participants. The maximum monthly payment rate is \$133 for both groups of children.

3. Persons infected with HIV

a. A minimum of two hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. The two hours must include one face-to-face contact with the recipient in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up/monitoring. A home assessment is a required component of the initial assessment for HIV case management services.

b. The procedure code applicable to case management services for this population is Z0095 and the monthly payment rate is \$99.

4. High Risk Pregnant Women of the Metropolitan New Orleans Area

a. A minimum of one hour of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. This must include one face-to-face contact with the recipient in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up monitoring. A home assessment is a required component of the initial assessment for high risk pregnant women case management services.

b. In addition, the following contacts are required:

- 1) a minimum of monthly verbal contact with the recipient's obstetrician or his staff;
- 2) weekly verbal contact with the recipient beginning with her 37th week of pregnancy until the delivery;
- 3) quarterly home visits with the recipient;
- 4) weekly contact with other service providers and/or informal supports; and
- 5) a postpartal home visit to be made within 10 to 14 calendar days after delivery focusing on postpartal concerns and infant care.

c. The procedure codes continue to be X0057 for assessment and X0058 for ongoing services and the monthly payment rates are \$130 for the assessment and \$57 for ongoing services.

d. Only one assessment service shall be reimbursed for each pregnancy.

5. Home Care for the Elderly Waiver Program Participants

a. A minimum of two hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. The two hours must include one face-to-face contact with the consumer in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up/monitoring.

b. Service provider records must be monitored by the case management agency every 60 days.

c. The procedures code for this population are Z0188 (hourly code) and Z1188 (15-minute) and the maximum the monthly payment rate is \$99.

Bobby P. Jindal
Secretary

9610#041

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Case Management Services for Mentally Retarded and Developmentally Disabled Program Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq, and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provided coverage and reimbursement for case management services under the State Plan and under the Home and Community Based Waiver Services Program to the Mentally Retarded/Developmentally Disabled. The bureau has now determined that it is necessary to suspend coverage of case management services for the mentally retarded/developmentally disabled population to those Medicaid recipients under the State Plan who are not participants in the Home and Community Based Waiver Services Program under the State Plan due to insufficient

funds. However, the case management services for the mentally retarded/developmentally disabled under the Home and Community Based Waiver Services Program shall be retained. This action is necessary to avoid a deficit in the medical assistance program.

Emergency Rule

Effective for dates of service October 29, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing suspends coverage and reimbursement of optional targeted case management services for non-waiver mentally retarded/developmentally disabled recipients under the State Plan. The case management services for the mentally retarded/developmentally disabled population under the Home and Community Based Waiver Services Program are retained.

Bobby P. Jindal
Secretary

9610#046

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Case Management for Seriously Mentally Ill
Termination of Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This rule shall be adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing has provided coverage and reimbursement under the Title XIX State Plan for optional targeted case management services for the seriously mentally ill. Effective July 1, 1996, the bureau adopted an emergency rule terminating coverage and reimbursement of optional targeted case management services for the seriously mentally ill under the Medicaid Program. This action is necessary to avoid a budget deficit in the medical assistance program.

Emergency Rule

Effective for dates of service October 29, 1996 and thereafter, the Department of Health and Hospitals, Office of

the Secretary, Bureau of Health Services Financing terminates coverage and reimbursement of optional targeted case management services for the seriously mentally ill under the Medicaid Program.

Bobby P. Jindal
Secretary

9610#047

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Direct Reimbursement to Recipients
During Period of Retroactive Eligibility**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in the Medicaid Program as authorized by R.S. 46:153. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing currently provides direct reimbursement to enrolled providers of medical care, supplies and services delivered to persons eligible for Medicaid coverage. In order to receive Medicaid reimbursement for services rendered prior to the individual's certification for Medicaid, the provider must refund the recipient's payment, if any, for services and submit a claim for reimbursement to the fiscal intermediary in accordance with program regulations.

On May 8, 1995, the United States District Court for the Eastern District of Louisiana issued a judgment requiring the Department of Health and Hospitals to provide repayment in some form to recipients for medical care, supplies and services rendered during the retroactive coverage period established by 42 U.S.C. Section 1396a(a)(34) when such care, supplies or services have been paid in whole or part by the recipient prior to certification. Therefore, the Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following emergency rule to comply with the judgment of the U.S. District Court effective June 6, 1996. This emergency rule provides for the direct reimbursement to persons found eligible for Medicaid benefits beginning February 15, 1995 for their payments to enrolled providers for services covered by the Medicaid Program. The following emergency rule continues the regulations in effect until adoption of the rule and thereby to avoid the potential penalties, if any, or sanctions from the federal government.

Emergency Rule

Effective October 4, 1996 and thereafter, the Department of Health and Hospitals, Bureau of Health Services Financing adopts the following provisions to establish and govern direct reimbursement to a Medicaid eligible for his payment(s) made

to any Medicaid-enrolled provider for medical care, services and supplies delivered during the recipient's period of retroactive eligibility and prior to receipt of the first medical eligibility card (MEC). Reimbursement shall be made only in accordance with all applicable federal and state regulations.

General Provisions

A. Reimbursement shall be made only for payments made to providers of medical care, services and supplies who were enrolled in the Medicaid Program at the time of service.

B. Reimbursement shall be made only for medical care, services and supplies covered by the Medicaid Program at the time of service.

C. Reimbursement shall be made only for medical care, services and supplies delivered during a retroactive eligibility period and prior to receipt of the recipient's first MEC.

D. Reimbursement shall be made only up to the maximum allowable Medicaid rate for the particular service(s) rendered.

E. Reimbursement shall be provided only under the following conditions.

1) Reimbursement shall be made only for eligibles certified for Medicaid coverage beginning February 15, 1995. Reimbursement shall be made for all bills, from any Medicaid-enrolled provider, for medical care, services and supplies covered by the Medicaid Program and rendered during the three months prior to application, as well as bills paid during the period from application to certification.

F. The Medicaid recipient must submit the following documentation to the bureau in order to receive reimbursement:

1) Proof of payment shall be a receipt or similar evidence of payment.

G. Reimbursement for services rendered during any retroactive eligibility period and prior to receipt of the initial MEC for Medicaid eligibles certified beginning February 15, 1995 through the effective date of this rule shall be made in accordance with the following requirements:

1) Proof in accordance with Subsection F above, along with the recipient's Medicaid identification number must be presented to the local Bureau of Health Services Financing (Medicaid) office by December 30, 1996.

H. Reimbursement of payments for services rendered during any retroactive eligibility period or prior to receipt of the recipient's initial MEC from the effective date of this rule and henceforth shall be made in accordance with the following requirements:

1) A recipient's intention to make a request for reimbursement must be made known to the local Bureau of Health Services Financing (Medicaid) office within 30 days from the date of the letter sent to the recipient advising him of his right to request reimbursement.

2) Proof in accordance with Subsection F above must be presented to the local Bureau of Health Services Financing (Medicaid) office within 15 days of the request for reimbursement. If the recipient requests an extension on this time limit, it will be provided.

Bobby P. Jindal
Secretary

9610#042

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Disproportionate Share Hospital Payment Methodologies

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq., and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Medicaid Program previously reimbursed private hospitals and publicly-owned or operated hospitals serving a disproportionate share of low income patients via 12 pools with payments based on Medicaid days. This payment methodology was implemented effective February 1, 1994 to comply with the Health Care Financing Administration's policy on Section 1923 (Adjustment in Payments for Inpatient Hospital Services Furnished by Disproportionate Share Hospitals) of the Social Security Act (42 U.S.C. Section 1396r-4). In addition, disproportionate share payments for indigent care based on free care days were made by establishment of a payment methodology which reimbursed providers for indigent care days based on a Medicaid per diem equivalent amount.

The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) amended Section 1923 of the Social Security Act by establishing individual hospital disproportionate share payment limits. To comply with these new provisions, the bureau's disproportionate share payment methodology which included provisions governing the qualifications applicable to private and public hospitals and payment methodology applicable to publicly-owned or operated hospitals was amended effective on July 1, 1994 and was published in the *Louisiana Register* Volume 20, Number 7. In addition, the qualification applicable to both public and private hospitals was included in the July 1, 1994 emergency rule which requires a disproportionate share hospital to have a Medicaid inpatient utilization rate of at least 1 percent is incorporated in the following emergency rule. These regulations continued to govern DSH payments through June 30, 1995.

In order to comply with the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) requirements for the upcoming federal fiscal year and in order to avoid a budget deficit in the medical assistance programs, the bureau determined that the

following changes were necessary in the payment methodologies for public state-operated hospitals, private hospitals and public nonstate hospitals. The following emergency rule which was initially adopted on June 24, 1996 (*Louisiana Register*, Volume 22, Number 6) replaced prior regulations governing disproportionate share payment methodologies excluding disproportionate share qualification criteria.

It is estimated that implementation of this rule will reduce expenditures for disproportionate share payments in the Medicaid Program by approximately \$40,312,599 for state fiscal year 1996-1997. Therefore, re-adoption of the following emergency rule is necessary to avoid a budget deficit in the medical assistance programs as state general fund revenues are not available to expend these additional monies.

Emergency Rule

Effective for dates of service on or after October 22, 1996 the Department of Health and Hospitals, Bureau of Health Services Financing replaces prior regulations governing disproportionate share hospital payment methodologies, excluding disproportionate share qualification criteria and establishes the following regulations to govern the disproportionate share hospital payment methodologies for public state-operated, private hospitals and public nonstate hospitals.

Disproportionate Share Hospital Payments Public State-Operated Hospitals

DSH payments to individual public state-owned or operated hospitals as defined below will be equal to 100 percent of the hospital's net uncompensated costs as defined below subject to the adjustment provision described below.

Definitions:

Public State Operated Hospital—a hospital that is owned or operated by the State of Louisiana.

Net Uncompensated Cost—costs incurred during the state fiscal year of furnishing inpatient and outpatient hospital services net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payor payments and all other inpatient and outpatient payments received from uninsured and Medicaid patients.

Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

Private Hospitals and Public Nonstate Hospitals

A. Reimbursement will no longer be provided for indigent care in private hospitals or public nonstate hospitals qualifying for disproportionate share payments.

B. The following pools, public local government acute care hospital and public local government distinct part psychiatric units/free-standing psychiatric hospitals are added to the six pools. These hospitals will no longer receive a DSH payment equal to each hospital's net uncompensated costs. Disproportionate share reimbursement for these qualifying hospitals will be based on methodology described below.

C. Each private or public nonstate hospital qualifying for participation in the eight disproportionate share pools with payments based on Medicaid days will receive payments

which are the lesser of 100 percent of its net uncompensated costs of providing services to Medicaid recipients and uninsured patients or their disproportionate share payment calculated by the bureau via the pool methodology.

D. Annualization of days for the purposes of the Medicaid days pools is not permitted. The bureau shall utilize the records of the audit intermediary to determine actual Medicaid days for the months needed to equate to a full year from the previous cost reporting period for existing hospitals with short cost reporting periods.

E. Qualification for and payment adjustment for DSH shall be based on the hospital's year end cost report for the year ended during the period July 1 through June 30 of the previous year.

F. Reimbursement will be based on Medicaid days included (based on qualification) in the eight pools listed in Item I below.

G. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization, but for purposes of disproportionate share hospital payment adjustments, the distinct part psychiatric units shall be placed in the psychiatric pools while the acute medical/surgical unit(s) shall be included in the appropriate teaching or nonteaching pool. Hospitals must meet the criteria for the pool classification based on their fiscal year-end cost report as of June 30 of the previous year.

H. For purposes of the pools defined below, service district hospitals/beds located outside the service district will be classified by the bureau as privately-owned and operated and shall be placed in the appropriate private hospital/unit pools.

I. The eight pools are as follows:

1. *Private Rural Acute Hospitals*—privately-owned acute care general, rehabilitation, and long term care hospitals, exclusive of distinct part psychiatric units which are designated as rural hospitals under criteria specified below. This includes public local government acute hospital days attributable to beds/units located in an area which is designated as rural and is located outside the service district area.

2. *Private Rural Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—privately-owned distinct part psychiatric units/freestanding psychiatric hospitals which are located in a rural area under criteria specified below. This includes public local governmental psychiatric hospital days attributable to beds/units located in an area which is designated as rural and is located outside the service district area.

3. *Private Teaching Hospitals*—privately-owned acute care, general, rehabilitation, and long term care hospitals, exclusive of distinct part psychiatric units, which are recognized as approved teaching hospitals under criteria specified below. This includes public local government acute hospital days attributable to beds/units located in an area outside the service district area and classified as a teaching hospital.

4. *Private Urban Nonteaching Hospitals*—privately-owned acute care general hospitals and long term care hospitals, exclusive of distinct part psychiatric units, which

are designated as urban hospitals and not recognized as approved teaching hospitals, under criteria specified below. This includes private urban non-teaching hospital days attributable to beds/units located in an area which is designated as urban and is located outside the service district area.

5. *Private Teaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—privately-owned distinct part psychiatric units/freestanding psychiatric hospitals which meet the criteria for recognition as approved teaching hospitals, under criteria specified below. This includes public local government distinct part psychiatric units/free-standing psychiatric hospital days attributable to beds/units located outside the service district area and classified as a teaching hospital.

6. *Private Urban Nonteaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—privately-owned distinct part psychiatric units/freestanding psychiatric hospitals which are located in an urban area and do not meet the criteria for recognition as approved teaching hospitals under criteria specified below. This includes public local government psychiatric hospital days attributable to beds/units located in an area which is designated as urban and is located outside the service district area.

7. *Public Local Government Acute Hospitals*—local government-owned acute care general, rehabilitation and long term care hospitals exclusive of distinct part psychiatric units. Only days attributable to beds/units located within the service district area qualify for inclusion to the pool.

8. *Public Local Government Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—local government-owned distinct part psychiatric units/freestanding psychiatric hospitals. Only days attributable to beds/units located within the service district area qualify for inclusion in this pool.

J. The definitions for hospital classifications applicable to the above Medicaid days pools are given below.

1. *Teaching Hospital*—A teaching hospital is defined as a licensed acute care hospital in compliance with the Medicare regulations regarding such facilities, or a specialty hospital with a graduate medical education program that is excluded from the prospective payment system as defined by Medicare. A specialty teaching hospital must have a written affiliation agreement with an accredited medical school to provide post graduate medical resident training in the hospital for the specialty services provided in the specialty hospital. The affiliation agreement must contain an outline of its program in regard to staffing, residents at the facility, etc. A distinct part or carve-out unit of a hospital shall not be considered a teaching hospital separate from the hospital as a whole. Teaching specialty hospitals that are not recognized by Medicare as an approved teaching hospital must furnish to the Department, copies of graduate medical education program assignment schedules and rotation schedules which document actual on-going resident training throughout the applicable cost reporting period and shall only be included in the teaching hospital pool for those days that graduate medical education is being provided.

2. *Nonteaching Hospital*—an acute care general hospital or specialty hospital not recognized as an approved

teaching hospital by the Department or under Medicare principles for the fiscal year-end cost report as of June 30 of the previous year.

3. *Urban Hospital*—a hospital located in a Metropolitan Statistical Area as defined per the 1990 census. This excludes any reclassification under Medicare.

4. *Rural Hospital*—a hospital that is not located in a Metropolitan Statistical Area as defined per the 1990 census. This excludes any reclassification for Medicare.

5. *Distinct Part Psychiatric Unit/Free-standing Psychiatric Hospital*—distinct part psychiatric units of acute care general hospitals or psychiatric units in long term care and rehabilitation hospitals meeting the Medicare criteria for PPS exempt units and enrolled under a separate Medicaid provider number and freestanding psychiatric hospitals enrolled as such.

K. Disproportionate share payments for each pool shall be calculated based on the product of the ratio determined by dividing each qualifying hospital's total Medicaid inpatient days for the applicable cost report by the total Medicaid inpatient days provided by all such hospitals in the state qualifying as disproportionate share hospitals in their respective pools, and then multiplying by an amount of funds for each respective pool to be determined by the director of the Bureau of Health Services Financing. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days. Pool amounts shall be allocated based on the consideration of the volume of days in each pool or the average cost per day for hospitals in each pool.

L. If at audit or final settlement of the cost reports on which the pools are based, the above qualifying criteria are not met, or the number of Medicaid inpatient days are reduced from those originally reported, appropriate action shall be taken to recover any over payments resulting from the use of erroneous data. No additional payments shall be made if an increase in days is determined after audit. Recoupment of overpayment from reductions in pool days originally reported shall be redistributed to the hospital that has the largest number of inpatient days attributable to individuals entitled to benefits under the State Plan of any hospitals in the state for the year in which the recoupment is applicable.

M. Hospitals/units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments. Also, hospital/units which reduce their services by 25 percent as compared to their cost report data on services provided shall be eligible for DSH pool payments in accordance with the level of services provided as indicated in the most current available cost report or as documented from claims history obtained from the claims intermediary.

General Provisions

Disapproval of any one of these payment methodology(ies) by the Health Care Financing Administration does not invalidate one remaining methodology(ies).

Disproportionate share payments cumulative for all DSH payments under all DSH payment methodologies shall not exceed the federal disproportionate share state allotment for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year.

The Department shall make necessary downward adjustments to hospitals' disproportionate share payments to remain within the federal disproportionate share allotment or the state disproportionate share appropriated amount. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment each year or state DSH appropriated amount, the Department shall calculate a pro rata decrease for each public (state) hospital based on the ratio determined by dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public hospitals during the state fiscal year and then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH appropriated amount. A pro rata decrease for nonstate hospitals will be calculated based on the ratio determined by dividing the hospitals Medicaid days by the days for all qualifying nonstate hospitals and then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

Interested persons may submit comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule.

Bobby P. Jindal
Secretary

9610#061

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Durable Medical Equipment Program—Customized
Wheelchairs Reimbursement**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq, and shall be in effect for the maximum period allowed under

the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses Durable Medical Equipment (DME) Providers 80 percent of the Medicare Fee Schedule amounts for wheelchairs with standardized construction and wheelchair accessories all of which have specific HCPC procedure codes and are included in the Medicare Fee Schedule. The Department provides reimbursement for wheelchairs with customized construction, HCPC procedure code E1220, and which are not included in the Medicare Fee Schedule based on the lowest bid received from the DME providers who participate in a seating evaluation conducted by a rehabilitation therapist and physician. The bureau has now determined it is necessary to revise its methodology of reimbursement for customized wheelchairs. Therefore, the following emergency rule has been adopted to change the methodology for reimbursing providers of customized wheelchairs from a bidding system to a formula pricing system based on the manufacturer's suggested retail price minus 18 percent. This action is necessary to avoid a budget deficit in the medical assistance programs.

Emergency Rule

Effective for dates of service October 29, 1996 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing revises the methodology for reimbursing providers of customized wheelchairs from a bidding system to a formula pricing system based on the manufacturer's suggested retail price minus 18 percent.

Bobby P. Jindal
Secretary

9610#045

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**EPSDT Program—Follow-up Medical Screening and
Rehabilitation Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission

screening and utilization review, and other measures as allowed by federal law". This proposed rule shall be adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq, and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses KIDMED providers a flat fee for medical screening services and for rehabilitation services provided to Medicaid recipients under 21 years of age, which are included in an Individual Education Plan or Individual/Family Service Plan and provided by school boards or early intervention centers covered under the early Periodic Screening, Diagnostic Testing and Treatment (EPSDT) Program. The rehabilitation services include evaluation and treatment services for speech, occupational, physical, and psychological therapies as well as audiological services. These services were not reduced during state fiscal year 1995-1996 when similar services were reduced for other providers.

The bureau has now determined that it is necessary to reduce the flat fee for the follow-up medical screening services codes and to reduce by ten percent the reimbursement fee for the previously referenced rehabilitation services. The following emergency rule is necessary to avoid a budget deficit in the medical assistance program.

Emergency Rule

Effective October 29, 1996 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following reimbursement methodology for follow-up medical screening and rehabilitation services provided under the Early Periodic Screening Diagnostic and Treatment (EPSDT) Program:

A. Reimbursement for follow-up medical screening services included under the EPSDT Program is reduced for the following procedure codes.

Procedure Codes	Description	New Rate
X0180	Consult EPSDT-New Dx by Nurse	\$13.71
X0181	Consult EPSDT-New Dx by Nutrition	\$13.71
X0182	Consult EPSDT-New Dx by Social Worker	\$13.71
X0187	Consult EPSDT-Scrn Dx-by Nurse	\$13.71
X0188	Consult EPSDT-Scrn Dx-by Nutrition	\$13.71
X0189	Consult EPSDT-Scrn Dx-by Social Worker	\$13.71

B. The reimbursement for rehabilitation services provided to Medicaid recipients under 21 years of age included in an Individual Education Plan or Individual/Family Service Plan and provided by school boards or early intervention centers covered under the Early Periodic Screening, Diagnostic Testing and Treatment (EPSDT) Program is reduced by 10 percent; these rehabilitation services include evaluation and treatment services for speech, occupational, physical, and psychological therapies as well as audiological services.

Bobby P. Jindal
Secretary

9610#038

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Federally Qualified Health Centers Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq, and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing has previously reimbursed Federally Qualified Health Centers under a cost reimbursement methodology as published in the *Louisiana Register*, Volume 16, Number 8 of August 20, 1990. The bureau has now determined it is necessary to revise its reimbursement methodology for Federally Qualified Health Centers by limiting reimbursements to Federally Qualified Health Centers by applying the Medicare payment limit to core services. A core service is defined as a face-to-face encounter with a physician, physician assistant, nurse practitioner, clinical psychologist or clinical social worker. The following emergency rule has been adopted to avoid a budget deficit in the medical assistance programs.

Emergency Rule

Effective for dates of service October 29, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing limits reimbursement to federally qualified health centers by applying the Medicare payment limit to core services. A core service is defined as a face-to-face encounter with a physician, physician assistant, nurse practitioner, clinical psychologist or clinical social worker.

Bobby P. Jindal
Secretary

9610#043

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Home Community Based Service Waiver Program Mentally Retarded Developmentally Disabled Waiver

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing administers four Home and Community Based Services Waiver Programs. Participation in each home and community based services waiver is limited to a specific number of participants based on the approval of the waiver application by the Health Care Financing Administration. The bureau adopted an emergency rule effective July 13, 1995 not to fill vacated slots in the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver Program except in certain specified circumstances (*Louisiana Register*, Volume 21, Number 7). Another emergency rule was adopted effective October 10, 1995 that allowed vacated slots in the MR/DD waiver to be filled in accordance with the methodology utilized prior to July 13, 1995 except that the number of slots to be filled could not exceed the total number of filled slots as of September 1, 1995 (*Louisiana Register*, Volume 21, Number 10). The bureau has now determined that it is necessary to adopt regulations governing the MR/DD Waiver Program to:

- 1) establish methodology for the assignment of slots vacated by discharged waiver participants and the 342 previously unoccupied slots; and

- 2) clarify policies on admission and discharge criteria, mandatory reporting requirements and the reimbursement requirement for the prior approval of the plan of care. The eligibility criteria for the MR/DD Waiver Program shall remain unchanged. The total number of slots assigned shall not exceed the maximum number of slots approved by the Health Care Financing Administration.

This action is necessary to preserve the health and welfare of individuals on the MR/DD waiver waiting list by assuring them an opportunity to make application for Medicaid eligibility and waiver services. It is anticipated that implementation of this emergency rule will increase expenditures by approximately \$8,043,011 for state fiscal year 1996-97.

Emergency Rule

Effective October 3, 1996 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services

Financing adopts the following regulations governing the MR/DD Waiver Program to:

- 1) establish methodology for the assignment of slots; and

- 2) clarify policies on admission and discharge criteria, mandatory reporting requirements and the reimbursement requirement for the prior approval of the plan of care.

The total number of slots assigned shall not exceed the maximum number of slots approved by the Health Care Financing Administration. The assignment of vacated and previously unoccupied waiver slots; admission and discharge criteria; mandatory reporting requirements and reimbursement for services provided prior to the approval of the plan of care shall be determined in accordance with the following guidelines.

Programmatic Allocation of Waiver Slots:

The waiting list shall be used to protect the individual's right to be evaluated for waiver eligibility. The Office for Citizens with Developmental Disabilities (OCDD) shall notify the next individual on the waiting list in writing that a slot is available and that they are next in line to be evaluated for possible waiver slot assignment. A copy of the notification letter shall be forwarded to the regional Health Standards Office. The individual then chooses a case manager who will assist in the gathering of the documents needed for both the financial and medical certification eligibility process. If the individual is determined to be ineligible either financially or medically, that individual is notified in writing and a copy of the notice is forwarded to the regional OCDD office. The next person on the waiting list is notified as stated above and the process continues until an eligible person is encountered. A waiver slot is assigned to an individual when eligibility is established and the individual is certified. Utilizing these procedures, waiver slots shall be allocated to the targeted groups cited below as follows:

1. When a currently certified participant is discharged from the waiver, the vacated slot shall be available for allocation to the next person on the MR/DD Waiver waiting list who successfully completes the financial and medical certification eligibility process and is certified for the waiver.

2. A minimum of 40 slots shall continue to be available for allocation to foster children in the custody of the Department of Social Services, Office of Community Services (OCS) who successfully complete the financial and medical certification eligibility process and are certified for the waiver. OCS shall be responsible for maintaining the waiting list for these slots; sending notification of an available slot to the next individual on the list; and assisting the individual to gather the documents needed in the eligibility determination process.

3. A maximum of 80 slots shall be available for allocation to the next 80 persons on the MR/DD Waiver waiting list who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

4. A maximum of 160 slots shall be available for allocation to current residents of the Pinecrest Development Center who successfully complete the financial and medical certification eligibility process and are certified for the

waiver. These residents will be identified by OCDD through their person-centered planning process and shall be individuals who are high functioning and have the self-determination capacity to live in a less restrictive environment.

5. A maximum of 78 slots shall be available for allocation to current residents of public community homes who successfully complete the financial and medical certification eligibility process and are certified for the waiver. These residents shall be individuals who are high functioning and have the self-determination capacity to live in a less restrictive environment. In addition, the public community home must reallocate its funds to the provision of waiver services.

6. Waiver slots shall no longer be reserved for use as emergency slots nor shall emergency slots be assigned.

Waiver Admission Criteria:

Admission to the MR/DD Waiver Program shall be determined in accordance with the following criteria:

1. initial and continued Medicaid eligibility as determined by the parish BHSF Office;

2. initial and continued eligibility for an ICF-MR level of care as determined by the regional Health Standards Office in consultation with the regional OCDD Office;

3. the plan of care must provide justification that the waiver services are appropriate, cost effective and represent the least restrictive treatment alternative for the individual; and

4. assurance that the health and safety of the individual can be maintained in the community with the provision of reasonable amounts of waiver services as determined by the regional Health Standards Office.

Waiver Discharge Criteria:

Participants shall be discharged from the MR/DD Waiver Program if one of the following criteria is met:

1. loss of Medicaid eligibility as determined by the parish BHSF Office;

2. loss of eligibility for an ICF-MR level of care as determined by the regional Health Standards Office in consultation with the regional OCDD Office;

3. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;

4. change of residence to another state with the intent to become a resident of that state;

5. admission to an ICF-MR facility or nursing facility;

6. the health and welfare of the waiver participant cannot be assured in the community through the provision of reasonable amounts of waiver services as determined by the regional Health Standards Office, i.e., the waiver participant presents a danger to himself or others;

7. failure to cooperate in either the eligibility determination process or the performance of the care plan; or

8. continuity of services is interrupted as a result of the participant not receiving waiver services during a period of 14 or more consecutive days. This does not include interruptions in services because of hospitalization.

Mandatory Reporting Requirements:

Case managers and waiver service providers are obligated to report changes that could affect the waiver participant's

eligibility, including but not limited to those changes cited in the discharge criteria, to either the parish BHSF Office or the regional Health Standards Office within five working days. In addition, case managers and waiver service providers are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and well-being of the waiver participant and completing an incident report. The incident report shall be submitted to the Regional Health Standards Office within five working days of the incident.

Reimbursement of Waiver Services:

Reimbursement shall not be made for waiver services provided prior to the date of approval for the plan of care.

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

Bobby P. Jindal
Secretary

9610#024

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Professional Services Program—Physician Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, utilization review, and other measures as allowed by federal law". This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage and reimbursement for physician services under the Medicaid Program. The bureau's reimbursement policy has included payment for anesthesia services provided on the day of surgery or delivery. However this policy has not been promulgated under the Administrative Procedure Act. In addition, the bureau has determined that the more appropriate reimbursement for the re-injection of the epidural catheter necessitates the use of the CPT procedure code 00098 when a period of several hours lapses between a delivery and the performance of a tubal ligation and the re-injection of the epidural catheter is required.

Previously the bureau had not defined a global surgery period for the reimbursement of surgical services which is now necessary in order to reimburse these services properly. Each CPT surgical procedure code will be assigned to a specific global surgery period. Three global surgery periods consisting of the day before and the day of surgery and either 0, 10, or 90 post-operative days will be utilized. Pre- and post-operative visits made during any of these global surgery periods shall be considered to be a part of the surgery fee.

The Medicaid Program reimburses professional services according to established rates for Current Procedural Terminology (CPT) codes, locally assigned codes and HCPS codes contained on the Physician's Formulary File. Reimbursement for certain bilateral medical and surgical procedures has been provided at a rate of 200 percent of the fee on this Physician's Formulary file. The bureau is proposing to reduce reimbursement to 150 percent of the fee on the Physician's Formulary File for following CPT procedure codes.

30903	31276	49505	69420	31254
49495	49507	69421	31255	49496
49520	69424	31256	49500	49521
69433	31267	49501	49525	69436

The bureau has determined through the Legislative Auditor's Report that the fees paid for four CPT codes were above the southern regional average.

36415 - for routine finger stick to collect specimen;

99211 - outpatient visit, established patient (may not require physician's presence);

99212 - outpatient visit, established patient, straightforward medical decision making;

99233 - for subsequent hospital care, medical decision making of high complexity.

Therefore the bureau will reduce the reimbursement for the following CPT procedure codes payable under the Professional Services Program in accordance with the southern regional average. The following emergency rule is necessary to avoid a budget deficit in the medical assistance programs.

Emergency Rule

Effective October 29, 1996 and thereafter, the Department of Health and Hospitals, Bureau of Health Services Financing adopts the following regulations governing the provision of physician services under the Professional Services Program:

1. Anesthesia Services

A. Anesthesia services are reimbursed for the day of surgery or delivery.

B. CPT procedure code 00098 must be used when a period of several hours lapses between a delivery and the performance of a tubal ligation and the re-injection of the epidural catheter is required.

2. Surgery Services

A. Each CPT surgical procedure code shall be assigned to one of the global surgery periods.

B. Three different global surgery periods will be utilized. One period shall consist of 0 days defined as the day before and the day of surgery only; the second period shall consist of 10 days defined as the day before and the day of

surgery and 10 post-operative days; and the third period shall consist of 90 days defined as the day before and the day of surgery and 90 post-operative days.

C. No outpatient or inpatient visits during the global surgery period will be reimbursed unless the diagnosis code for the visit is different from that of the diagnosis code necessitating the surgery.

3. Bilateral Medical and Surgical Procedure Reductions. Reimbursement shall be made at 150 percent of the fee on the Physician's Formulary File for the following CPT procedure codes.

30903	31276	49505	69420	31254
49495	49507	69421	31255	49496
49520	69424	31256	49500	49521
69433	31267	49501	49525	69436

4. Other Reimbursement Reductions

CPT Code	Description	New Fee
36415	Routine finger stick to collect specimen	\$ 2.65
99211	Outpatient visit, established patient (may not require physician's presence)	\$ 9.24
99212	Outpatient visit, established patient straightforward medical decision making	\$18.91
99233	Subsequent hospital care, medical decision making of high complexity	\$42.60

Bobby P. Jindal
Secretary

9610#039

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Rehabilitation Hospitals—Hospital Prospective
Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for

certain specialty hospital services including rehabilitation hospitals under specialty hospital peer groups as established by the Hospital Prospective Reimbursement Methodology Rule adopted by reference in the *Louisiana Register*, Volume 20, Number 6, page 668. The bureau has now determined it is necessary to prospectively reimburse rehabilitation hospitals within the peer groups established for nonteaching hospitals in Hospital Prospective Reimbursement Rule. Nonteaching hospitals are grouped according to the number of staffed beds. Rehabilitation hospitals shall be placed in the appropriate nonteaching hospital peer groups according to the number of licensed rehabilitation beds as of March 31 of the year preceding the fiscal year for which the rates will be in effect. The bureau will continue to apply the criteria contained in the pre-admission and certification and length of stay criteria for Inpatient Hospital Services Rule (*Louisiana Register*, Volume 20, Number 6, page 668-669) according to the treatment needs of the individual patient. This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will reduce expenditures by approximately \$288,630 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of services on or after October 1, 1996, the Department of Health and Hospitals, Bureau of Health Services Financing amends the Hospital Prospective Reimbursement Methodology Rule (*Louisiana Register*, Volume 20, Number 6, page 668) by prospectively reimbursing rehabilitation hospitals within the peer groups established for nonteaching hospital established in the Hospital Prospective Reimbursement Methodology Rule. The appropriate peer group shall be determined according to the number of licensed rehabilitation beds as of March 31 of the year preceding the state fiscal year for which the rates will be in effect. The bureau will continue to apply the criteria contained in the pre-admission and certification and length of stay criteria for Inpatient Hospital Services Rule (*Louisiana Register*, Volume 20, Number 6, page 668-669) according to the treatment needs of the individual patient.

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule.

Bobby P. Jindal
Secretary

9610#003

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

State-Funded Medically Needy Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the

following emergency rule under the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing previously administered the Medically Needy Program under the Title XIX State Plan pursuant to the Social Security Act. The Department determined that there were insufficient federal funds available under the federal appropriation for implementation of Title XIX of the Social Security Act for Louisiana to continue the administration of the Medically Needy Program and, as a result, terminated the Program effective June 30, 1996 (*Louisiana Register*, Volume 22, Number 6). Executive Order 96-17 authorized the establishment of a State-Funded Medically Needy Program; therefore the Department established the State-Funded Medically Needy Program in compliance with this Order by adopting an emergency rule effective July 1, 1996 (*Louisiana Register*, Volume 22, Number 7). The State-Funded Medically Needy Program is limited to individuals who were certified for the Title XIX Medically Needy Program or have pending application under the Title XIX Medicaid Program and are subsequently found eligible for Title XIX Medically Needy for June 1996. The State-Funded Medically Needy Program incorporates the same recipient eligibility criteria and scope of services which previously existed under the Medically Needy Program of the Title XIX State Plan except as otherwise provided herein. The Department has now determined based on legislative recommendation that it is necessary to expand the State-Funded Medically Needy Program to:

- 1) provide coverage for those persons who are not continuously eligible for benefits under the State-Funded Medically Needy Program in order to assure continuity of their medical care; and

- 2) establish an eligibility determination process for applicants who meet specified medical or income conditions and to provide for their certification based on the Title XIX Medically Needy Program.

Adoption of the following emergency rule is essential to protect eligible persons from imminent peril to their health and welfare should they have insufficient resources for obtaining necessary medical services.

Emergency Rule

Effective October 8, 1996 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing continues and re-establishes the State-Funded Medically Needy Program which shall be governed by the following provisions.

I. General Provisions

The State-Funded Medically Needy Program shall be administered in accordance with requirements of Title XIX of the Social Security Act for the Medically Needy Program under the Act except as described below.

A. Eligibility

1. Coverage under this program shall be limited to individuals who are certified for the Title XIX Medically Needy Program or have a pending application for participation under the Title XIX Medicaid Program and are subsequently found eligible for Title XIX Medically Needy

Program for June 30, 1996. Recipients who were found eligible and certified as of June 30, 1996 may reapply through June 30, 1997. They must meet all the federal eligibility criteria of the Title XIX Medically Needy Program in order to maintain or to re-establish their eligibility status under the State-Funded Medically Needy Program.

2. Recipients who are determined to be potentially eligible under any Title XIX eligibility category or any other benefit must take all appropriate steps to pursue that eligibility including applying for coverage and providing the necessary information to determine eligibility for the Title XIX category or other benefit.

3. Eligibility for the State-Funded Medically Needy Program will be terminated under any one of the following circumstances:

a) the recipient is determined eligible under a Title XIX category or other benefit;

b) the recipient refuses to apply for coverage or cooperate in the eligibility determination process;

c) the recipient no longer meets the required criteria of health condition or age; or

d) the recipient no longer meets the eligibility requirements of the Title XIX Medically Needy Program terminated on June 30 1996.

4. The State-Funded Medically Needy Program shall provide for an eligibility determination process for the following persons:

a. persons in a nursing facility whose countable income exceeds 300 percent of the Supplemental Security Income (SSI) federal benefit rate;

b. children under the age of one who are receiving critical care services (neonates);

c. children through age seventeen with a diagnosis of cancer;

d. persons with renal (kidney) failure who require hemodialysis treatment;

Applicants listed above who meet the eligibility criteria of the Title XIX Medically Needy Program shall be determined eligible no earlier than October 8, 1996. There shall be no retroactive eligibility period for persons determined eligible under the items a. - d. listed above.

B. Services. The scope of services and reimbursement for the covered services shall be provided in accordance with the federal and state regulations that previously governed the Title XIX Medically Needy Program administered by the Bureau of Health Services Financing.

C. Appeal Rights. Applicants who are denied eligibility or recipients who lose eligibility under the State-Funded Medically Needy Program shall be afforded the opportunity to appeal the agency's decision in accordance with the Administrative Procedure Act. There shall be no continuation of benefits pending appeal.

Bobby P. Jindal
Secretary

9610#035

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Title XIX—Medically Needy Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act, 42 USCA 1396a et seq. and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has provided coverage for the Medically Needy Program under the Medicaid Program. The Medically Needy Program includes those individuals or families who meet all AFDC or SSI related categorical requirements and whose income is within the Medically Needy Income Eligibility Standard and/or whose resources are within the allowable limits. It also includes those individuals or families whose resources fall within the AFDC or SSI limits, but whose income is above the Medically Needy Income Eligibility Standard. Coverage for these individuals is optional under Title XIX of the Social Security Act Section 1902(a)(10) and 42 CFR Subpart D Section 435.300. A state may choose to include or exclude coverage for this eligibility category from its Title XIX State Plan. The Department has now determined it is necessary to terminate coverage for the Medically Needy eligibility category in order to avoid a budget deficit in the medical assistance programs.

Emergency Rule

Effective October 29, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates coverage for all individuals certified for the Medically Needy Program including those individuals with an approved period of coverage which extends beyond June 30, 1996.

Bobby P. Jindal
Secretary

9610#040

DECLARATION OF EMERGENCY

Department of Labor Board of Review

Continuances, Postponements, Reopenings, and Rehearings (LAC 40:IV.113)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the statutory authority of R.S. 23:1631, the Board of Review declares that the following emergency rule was adopted on September 18, 1996, to become effective on the future date of October 20, 1996, and shall remain effective thereafter for the maximum period of 120 days allowable under R.S. 49:954(B)(2), or until final rule is adopted, whichever occurs first.

The adoption of such emergency and initial rule is necessary to avert the imminent danger of adversely affecting non-appealing parties in an administrative appeal. Under the present language of such rule, circumstance is arising where the appealing party does not appear before the administrative hearing and yet the other appearing party, who has not initiated such appeal, is compelled to testify and potentially subject himself to a reversal of an agency determination in his favor. This adverse impact directly penalizes the employer, claimant, and the state in terms of costs of further appeal and charges to the unemployment compensation trust fund. This detriment is further compounded by the hearsay character of administrative records, which, without corroborating support of testimony and other evidence, cannot alone be sustained upon appeal. The repercussion extends not only to benefit claims but also to assessments of benefit overpayments. Such emergency rule shall provide immediacy to eliminate such contrary consequences without further jeopardy or injury to the parties and the state.

The notice of intent for promulgation of the permanent rule is being published in this issue of the *Louisiana Register*.

Title 40

LABOR AND EMPLOYMENT

Part IV. Employment Security

Subpart 1. Board of Review

Chapter 1. Appealed Claims for Board of Review

§113. Postponements, Continuances, Reopenings, and Rehearings

A. Continuances or Postponements

1. A scheduled hearing may be postponed or continued by the administrative law judge for good cause, either upon his own motion or upon a showing of good cause by written request of a party, submitted to the administrative law judge whose name and address appear on the notice of hearing. Written notice of the time and place of a postponed or continued hearing shall be given to the parties or their named representatives.

2. The administrative law judge shall provide written denial to any party whose written request for postponement or continuance is received after his decision has been mailed. The requesting party shall also be provided written notice of his right either to file written request for a reopening of

hearing before the administrative law judge within seven days from the date of mailing of the decision on the claim or to file further appeal to the Board of Review under §§109 and 125. The untimely request for postponement or continuance shall not itself be treated as an appeal of the decision to the Board of Review. An appeal may also be timely filed by a party before the Board of Review under §§109 and 125 after a written response to the request for reopening is issued by the administrative law judge.

3. Any such request of a party and response of the administrative law judge shall be incorporated in the case file.

B. If the appellant, who is the party who files the appeal before the Appeals Tribunal, fails to appear within 15 minutes after the scheduled hearing time at an in-person hearing, or fails to be available to receive the telephone call to participate in a scheduled telephone hearing at the scheduled hearing time, the administrative law judge shall order the appellant in default and issue a dismissal of appeal. In such event, the agency determination shall become the final decision. Written notice of default of the appellant and dismissal of the appeal shall be mailed to the parties. The appellant either may file a written request for reopening before the administrative law judge, with a showing of good cause, within seven days of the date of mailing of the dismissal decision or may file an appeal before the Board of Review under §§109 and 125. If such appellant is denied a reopening by the administrative law judge, any such request shall be forwarded to the Board of Review as an appeal as of the date of the written request for reopening. If it is determined by the administrative law judge on reopening or by the Board of Review on appeal that the appellant has shown good cause for his non-appearance, the dismissal shall be vacated and a new hearing on the merits shall be scheduled.

C. If the appellee, who is the party whose agency determination is being appealed by another party before the appeals tribunal, fails to appear at the scheduled hearing time of an in-person hearing, or fails to be available to receive the telephone call to participate in a scheduled telephone hearing at the scheduled hearing time, the administrative law judge shall proceed to conduct the hearing and issue a decision on the merits based upon the administrative record and any evidence and testimony presented by the appellant. The appellee may either file a written request for reopening before the administrative law judge, with a showing of good cause, within seven days of the date of mailing of the decision or may file an appeal before the Board of Review under §§109 and 125. If such appellee is denied a reopening by the administrative law judge, any such request shall be forwarded to the Board of Review as an appeal as of the date of the written request for reopening. If it is determined by the administrative law judge on reopening or by the Board of Review on appeal that the appellee has shown good cause for his non-appearance, the decision shall be vacated, and a new hearing on the merits shall be scheduled.

D. The administrative law judge or the Board of Review shall make a determination of good cause for failure to appear only if the written request for reopening or the appeal filed by the party contains a statement of the reason(s) for his failure

to act in a timely manner and reasonably justifies a finding of good cause to excuse such failure.

E. Good Cause for Reopening

1. To determine whether good cause has been shown in a request for reopening or in an appeal to excuse the failure of a party to appear, the administrative law judge and the Board of Review shall consider any relevant factors, including, but not limited to:

- a. reasonably prudent behavior;
- b. untimely receipt of notice;
- c. administrative error;
- d. reasons beyond control or avoidance;
- e. reasons unforeseen;
- f. timely effort to request continuance;
- g. physical incapacities;
- h. degree of untimeliness; or
- i. prejudice to parties.

2. Failure to provide timely notice of change or correction of address shall not establish good cause for failure to appear, unless the party satisfactorily demonstrates his reasonable belief in his request or appeal that such notice was not needed or had been provided.

3. The basis of any determination by the administrative law judge or the Board of Review relating to good cause must be provided in the written response or decision. The fulfillment of each of the above factors is not required in any such response or decision for the establishment of good cause for failure to appear.

F. A written request for reopening before the administrative law judge may be filed within seven days of the date of mailing of his decision or an appeal to the Board of Review may be filed under §§109 and 125 by any party for admission of additional evidence upon the showing of good cause that any such evidence is newly discovered or was unavailable or unknown at the time of the hearing.

G. The term *Party* or *Parties*, as used in these rules, shall mean the claimant and the employer or any legal or designated representative thereof, including the administrator in those appeals in which he is specified as a party under R.S. 23:1629.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1631.

HISTORICAL NOTE: Promulgated by the Department of Labor, Board of Review, LR 23:

K. Gordon Flory
Chairman

9610#051

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Gaming Control Board**

**Record Preparation Fees and Quarterly
Submissions (LAC 42)**

In accordance with the provisions of R.S. 49:953(B), the Gaming Control Board hereby determines that adoption of

emergency rules relative to record preparation fees and quarterly submissions by riverboat gaming operator licensees is necessary and that for the following reasons failure to adopt rules on an emergency basis will result in imminent peril to the public health, safety, and welfare.

Act 7 of the First Extraordinary Session of 1996, effective May 1, 1996, created the Gaming Control Board with all regulatory authority, control and jurisdiction, including investigation, licensing and enforcement, and all power incidental or necessary to such regulatory authority, control and jurisdiction over all aspects of gaming activities and operations as authorized pursuant to the provisions of the Riverboat Economic Development and Gaming Control Act, the Economic Development and Gaming Corporation Act, and the Video Draw Poker Devices Control Law.

Further, Act 7 provides that all powers, duties, functions and responsibilities of the Riverboat Gaming Commission, Video Gaming Division and Riverboat Gaming Enforcement Division of State Police, and the Economic Development and Gaming Corporation are transferred to and shall be performed and exercised by the Gaming Control Board, and that the powers, duties, functions and responsibilities and any pending or unfinished business of those regulatory entities becomes the business of and shall be completed by the Gaming Control Board with the same power and authority as the entity from which the functions are transferred.

It is essential in order to provide efficient regulation of the gaming industry that persons involved in the administrative hearing process be assessed and pay fees for the cost of preparation of the administrative record.

It is essential to the purposes of Act 7 that riverboat gaming operator licensees submit on a quarterly basis to the Gaming Control Board a statement of compliance which shall include a certification under oath that the licensee is continuing to make a good faith effort to meet all voluntary procurement and employment conditions.

For the foregoing reasons, the Gaming Control Board has determined adoption of emergency rules is necessary and hereby adopts these emergency rules, effective October 11, 1996, in accordance with R.S. 49:953(B), to be effective for a period of 120 days or until the final rule is promulgated, whichever occurs

Title 42

LOUISIANA GAMING

§109. Record Preparation Fees

A. Any person requesting a hearing, or to whom a hearing is being afforded, pursuant to the provisions of §§103 and 108 or otherwise pursuant to the provisions of the Louisiana Gaming Control Law, La. R.S. 27:1 et seq., the Louisiana Riverboat Economic Development and Gaming Control Act, La. R.S. 4:501 et seq., the Video Draw Poker Devices Control Law, La. R.S. 33:4862.1 et seq., the Louisiana Economic Development and Gaming Corporation Act, La. R.S. 4:601 et seq., and rules promulgated in accordance therewith, shall be assessed and pay a fee based upon costs of preparing the administrative record and transcript for submission to the Board or the 19th Judicial District Court.

B.1. No less than 10 days prior to the date scheduled for the administrative hearing, the party shall deposit with the

Board the sum of \$100 as prepayment of the costs of preparing the administrative record and transcript.

2. Failure to timely pay the \$100 deposit may result in dismissal of the hearing (with prejudice).

C.1. After the hearing has been conducted, the actual costs of preparing the administrative record and transcript will be determined by the Board and the party will be notified of such actual costs.

2. In the event actual costs are less than \$100, a refund will be made to the party.

3. Actual costs in excess of \$100 shall be assessed against the party, who shall pay the excess costs within 10 days of the date of receipt of the notice of assessment.

4. Failure to timely pay the excess costs assessed may result in dismissal of the hearing, and shall prevent the record and transcript from being transmitted to the Board or 19th Judicial District Court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:

§110. Quarterly Submissions

A. Commencing with the issuance of any riverboat gaming operator license, the licensee shall submit on a quarterly basis to the Board a statement of compliance with the applicant or licensee's previously submitted application or economic development plan as to those aspects of the plan which are then underway.

B. The licensee will certify quarterly under oath that a good faith effort to meet the voluntary procurement and employment conditions is being made, and shall quarterly demonstrate to the Board that an effort was made to meet the conditions. The quarterly statement shall be forwarded to the Board by certified mail no later than 20 days after the end of each quarter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:

Hillary J. Crain
Chairman

9610#099

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

AFDC-Alien Eligibility (LAC 67:III.1141 and 1143)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Aid to Families with Dependent Children (AFDC) Program, effective October 1, 1996. This emergency rule shall remain in effect for a period of 120 days.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, which was signed into law on August 22, 1996, mandates revision of AFDC Program policy regarding the eligibility of noncitizens effective October 1, 1996. The proposed rule limits eligibility for noncitizens by redefining the groups of noncitizens who may be eligible for benefits, assigning time limits and deeming income and resources of a sponsor and sponsor's spouse. An emergency rule is necessary to effect these federal regulations and to avoid sanctions or penalties which could be imposed by delaying implementation.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Aid to Families with Dependent Children

Chapter 11. Application, Eligibility, and Furnishing Assistance

Subchapter B. Coverage and Conditions of Eligibility

§1141. Eligibility Requirements for Aliens

A. An alien who is not a qualified alien is not eligible. A qualified alien is:

1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
2. an alien who is granted asylum under Section 208 of such Act;
3. a refugee who is admitted to the United States under Section 207 of such Act;
4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;
5. an alien whose deportation is being withheld under Section 243(h) of such Act; or
6. an alien who is granted conditional entry pursuant to Section 203(a)(7) of such Act as in effect prior to April 1, 1980.

B. Time-limited Benefits. All of the above stated qualified aliens are eligible with the following limitations:

1. Aliens who are refugees admitted under Section 207 are eligible for five years from the date of entry.
2. Aliens who are granted asylum under Section 208 are eligible for five years from the date asylum was granted.
3. Aliens whose deportation is withheld under Section 243(h) are eligible for five years after such withholding.
4. Permanent resident aliens who are currently residing in the United States are eligible if they are lawfully admitted for permanent residence, and have worked 40 qualifying quarters of SSA coverage. For a quarter to qualify as a qualifying quarter after December 31, 1996, the alien must not have received any federal means-tested benefit.
5. Permanent resident aliens who enter the United States after enactment are ineligible for five years from the date of entry.

6. Veterans who are honorably discharged for reason other than alienage and their spouses and unmarried dependent children and active duty personnel (other than for training) in the armed forces and their spouses and unmarried dependent children are eligible.

C. When determining eligibility, income of an alien parent who is disqualified is considered available to the otherwise eligible child by applying the stepparent deeming formula.

The needs and income of disqualified alien siblings are not considered in determining the eligibility of an otherwise eligible dependent child.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:48687 et seq., P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Eligibility Determinations, LR 14:280 (May 1988), LR 14:438 (July 1988) amended by the Department of Social Services, Office of Family Support, LR 23:

§1143. Income and Resources of Alien Sponsors

In determining eligibility and benefit amount for an alien, the income and resources of their sponsor and the sponsor's spouse must be considered. A sponsor is defined as any person who executed an affidavit of support pursuant to Section 213.A of the Immigration and Nationality Act on behalf of the alien. The income and resources of the sponsor shall apply until the alien:

1. achieves United States citizenship through naturalization; or

2. has worked 40 qualifying SSA quarters of coverage, and in case of any such qualifying quarter after December 31, 1996, did not receive any federal means-tested public benefit.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, P.L. 100-485 (Section 402) and 45 CFR 205-206,233-234, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 23:

Madlyn B. Bagneris
Secretary

9610#056

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

JOBS Program Participation Requirements (LAC 67:III.2907)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule, LAC 67:III.Subpart 5, Job Opportunities and Basic Skills Training Program. This emergency rule shall remain in effect for a period of 120 days.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which was signed into law on August 22, 1996, mandates a change in the JOBS Program, known in Louisiana as *Project Independence*, effective October 1, 1996, regarding mandatory recipients and the number of participation hours required in the Project Independence Program. An emergency rule is necessary to effect these federal regulations and to avoid sanctions or penalties which could be imposed by delaying implementation.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 5. Job Opportunities and Basic Skills Training Program

Chapter 29. Organization

Subchapter B. Participation

§2907. Individual Participation Requirements

All recipients of AFDC are mandatory participants unless determined exempt in accordance with Public Law 104-193.

1. All nonexempt applicants and recipients with a child over age one are required to participate in the JOBS program as an eligibility condition for receipt of AFDC.

2. In any two-parent family eligible for AFDC, one parent must participate for a total of at least 35 hours per week in a work-related activity.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 19:504 (April 1993), LR 19:1177 (September 1993), LR 23:

Madlyn B. Bagneris
Secretary

9610#057

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

General Administrative Procedures and Food Stamp Program (LAC 67:III.Chapters 1 and 19)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in its General Administrative Procedure and Food Stamp Program effective October 1, 1996. This rule shall remain in effect for a period of 120 days.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which was signed into law on August 22, 1996, mandates revision of Food Stamp Program policy effective October 1, 1996. An emergency rule is necessary to effect these federal regulations and to avoid sanctions or penalties which could be imposed by delaying implementation.

Section 1943 is being repealed, however, language from the Section is incorporated into new §1938. In addition to revision of text, §1941 has been retitled to improve and clarify its purpose and content.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support

Subpart 1. General Administrative Procedures

Chapter 1. Confidentiality

§101. Release of Confidential Information

A. - B.24. ...

25. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:56(A), (B), (C), (E), (F) (4), and (H).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:321 (April 1990), amended by the Department of Social Services, Office of Family Support, LR 23:

§103. Confidential Information

A. - C.2. ...

3. information in case records pertaining to the Food Stamp Program except that state agencies may make available upon request to any federal, state or local law enforcement officer, the address, social security number, and (if available) photograph of a food stamp recipient if the officer furnishes the recipient's name and notifies the agency that the individual is fleeing to avoid prosecution, custody, or confinement for a felony, is violating a condition of parole or probation, or has information necessary for the officer to conduct an official duty related to a felony/parole violation.

C.4. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:65, 7 CFR 273.2; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Health and Human Resources Administration, Division of Family Services, LR 2:36 (January 1976), amended by the Department of Social Services, Office of Family Support, LR 23:

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter A. Household Concept

§1901. Household Composition

A. - B.1. ...

2. natural, adopted or step-children, age 21 or under who live with their parents.

C. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:52328 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.1, P.L. 100-77, P.L. 103-66, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 8:9 (January 1982), amended LR 9:62 (February 1983), LR 9:130 (March 1983), LR 13:643 (November 1987), LR 14:87 (February 1988), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:

Subchapter B. Application Processing

§1909. Expedited Service-Maximum Allowable Limit, Definition, Verification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:53828 et seq. and 7 CFR 271, 272, 273.3, 275.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January

1982), amended LR 9:62 (February 1983), repealed by the Department of Social Services, Office of Family Support, LR 23:

§1911. Households Eligible for Expedited Service

A. Expedited service is defined as the providing of food stamp benefits no later than seven calendar days from the application date.

B. Households entitled to receive benefits under the Food Stamp Program's expedited service procedure are defined as follows:

1. those households whose combined gross income and liquid resources are less than the household's monthly rent or mortgage and utilities;

2. households whose countable gross monthly income is less than \$150 and whose countable liquid resources are \$100 or less;

3. migrant or seasonal households who are destitute and whose countable liquid resources are \$100 or less.

C. Verification shall be required of income and liquid resources to the extent practical within the expedited service time frame.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 52:36390 et seq., 7 CFR 273.2, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), LR 13:738 (December 1987), amended LR 14:150 (March 1988), amended by the Department of Social Services, Office of Family Support, LR 23:

Subchapter B. Application Processing

§1915. Homeless Food Stamp Household

A. - B.2. ...

3. a temporary accommodation for not more than 90 days in the residence of another individual; or

4. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:7554 et seq., F.R. 52:36390 et seq., 7 CFR 273.2, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:287 (May 1987), LR 13:437 (August 1987), amended LR 13:643 (November 1987), LR 14:87 (February 1988), amended by the Department of Social Services, Office of Family Support LR 23:

Subchapter G. Work Requirements

§1938. Work Registration Requirements

A. Each household member who is not exempt from work registration shall be registered for employment at the time of application and once every 12 months after initial registration as a condition of eligibility. At the time of application, the state agency shall explain to the applicant the consequences of violation of the work requirements.

1. No individual physically and mentally fit and between the ages of 16 and 60, is eligible to participate if that individual:

a. refuses without good cause to provide sufficient information to allow a determination of his/her employment status or job availability;

b. voluntarily and without good cause quits a job;

c. voluntarily and without good cause reduces his/her work effort (and, after the reduction, is working less than 30 hours a week);

d. refuses, at the time of application and every 12 months thereafter, to register for employment;

e. refuses without good cause to participate in an employment and training program; or

f. refuses without good cause to accept an offer of employment.

2. If it is determined that an individual other than the head of the household has violated the work requirements without good cause, that individual shall be ineligible to participate in the Food Stamp Program as follows:

a. first sanction—until failure to comply ceases or three months, whichever is longer;

b. second or subsequent sanction—until failure to comply ceases or six months, whichever is longer.

3. If the head of the household fails to comply, the entire household is ineligible to participate for the duration of the disqualification period.

4. If any household member who violated the work requirement joins another household as head of the household, that entire new household is ineligible for the remainder of the disqualification period. If the member who violated the work requirement joins another household where that individual is not head of household, that individual shall be considered an ineligible household member.

B. Determining Whether a Work Requirement Violation Occurred

1. When a household files an application for participation, or when a participating household reports the loss of a source of income, the OFS shall determine whether any household member:

a. refused without good cause to provide sufficient information to allow a determination of his/her employment status or job availability;

b. voluntarily and without good cause quit a job;

c. voluntarily and without good cause reduced his/her work effort (and, after the reduction, is working less than 30 hours a week);

d. refused, at the time of application and every 12 months thereafter, to register for employment;

e. refused without good cause to participate in an employment and training program;

f. refused without good cause to accept an offer of employment.

2. Benefits shall not be delayed beyond the normal processing times pending the outcome of this determination. This provision applies only if the employment involved 20 hours or more per week or provided weekly earnings equivalent to the federal minimum wage multiplied by 20 hours; the violation occurred within 60 days prior to the date of application or anytime thereafter, and was without good cause. Terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered a violation for purpose of this section. An employee of the federal government, or of a state or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike, shall be considered to have violated the work requirements without good cause.

3. If an application for participation is filed in the last month of the disqualification period, the eligibility worker shall use the same application for the denial of benefits in the

remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

4. Upon a determination that a violation of the work requirements occurred, the OFS shall determine if the violation was with good cause. If it is determined that good cause does not exist, the sanction will be imposed. The OFS shall provide the household with a notice of ineligibility. The notice shall inform the household of the proposed period of disqualification; its right to reapply at the end of the disqualification; and of its right to a fair hearing.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

§1939. Work Exemption Guidelines

A. Exemptions from Work Registration. A parent or other household member who is responsible for the care of a dependent child under the age of six is exempt from work registration.

B. Job Search. The Office of Family Support has opted not to impose job search at the time of application.

AUTHORITY NOTE: Promulgated in accordance with F.R. 49:39035 et. seq., 7 CFR 273.7; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resource, Office of Family Security, LR 10:865 (November 1984), LR 11:39 (January 1985), amended by the Department of Social Services, Office of Family Support, LR 23:

§1940. Work Participation Requirements for Able-bodied Adults Without Dependents

A. Individuals are ineligible to continue to receive food stamps if, during the preceding 36-month period they received food stamps for at least three months (consecutive or otherwise) while that individual did not either:

1. work at least 20 hours per week;

2. participate in and comply with a Job Training Partnership Act Program, Trade Adjustment Act Program, or Employment and Training Program (other than a job search or job search training program) for 20 hours or more per week; or

3. participate in and comply with a workfare program.

B. An individual is exempt from this requirement if the individual is:

1. under 18 or over 50 years of age;

2. medically certified as physically or mentally unfit for employment;

3. a parent or a member of a household with responsibility for a dependent child;

4. pregnant; or

5. otherwise exempt.

C. Individuals can regain eligibility for assistance.

1. Individuals denied eligibility under the new work rule can regain eligibility if during a 30-day period the individual:

a. works 80 hours or more;

b. participates in and complies with a Job Training and Partnership Act program, Trade Adjustment Assistance Act program, or Employment and Training program (other than a job search or job search training program) for 80 hours or more;

c. participates in and complies with a workfare program (under Section 20 of the Food Stamp Act or a comparable state or local program) for 80 hours or more.

2. If individuals subsequently lose this employment or cease participation in work or workfare programs, participation can continue for up to three consecutive months (beginning from the date the state is notified that work has ended), after which the only cure during the 36-month period will be to comply with the work requirement or to become exempt under other provisions of the requirement.

D. The first countable month of this provision is November, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

§1941. Work Requirements of the Food Stamp Household

A. Persons losing exemption status due to any change in circumstances that are subject to the reporting requirements shall register for employment when the change is reported.

1. A person age 16 or 17 who is not head of household or who is attending school or enrolled in an employment training program on at least a half-time basis is exempt.

2. A household member subject to and complying with any work requirement under Title IV of the Social Security Act is also exempt.

B. The OFS shall register for work each household member who is not exempt. The OFS will explain to the applicant the pertinent work requirements, rights and responsibilities of work registered household members, and the consequences of failure to comply. A written statement of this will be given to each work registrant. The OFS shall be responsible for screening each work registrant to determine whether or not it is appropriate, based on OFS's criteria, to refer the individual to an employment and training program, if available, and if appropriate, referring the individual to an employment and training program component. The registrant will be told either orally or in writing, the requirements of the component, what will constitute noncompliance and the sanctions for noncompliance. The OFS shall take appropriate sanction action within 10 working days after learning of noncompliance.

C. Employment and Training (E&T) Programs

1. The OFS submitted an employment and training program plan to the United States Department of Agriculture, Food and Consumer Services (FCS) Dallas Regional Office and the FCS Office of Alexandria, Virginia. A copy of the plan is available for public inspection at the Food Stamp Program Office, 438 Main Street, Baton Rouge, Louisiana.

2. Persons required to register for work and not exempted by OFS from placement in an employment and training program shall be subject to the requirements imposed by the OFS for that individual. Such individuals are referred to as E&T mandatory participants. Requirements may vary among participants. Failure to comply without good cause with the requirement imposed by the OFS shall result in disqualification.

3. Work registrants shall:

a. participate in an employment and training program, if assigned by the OFS;

b. respond to a request from the OFS or its designees for supplemental information regarding employment status or availability for work;

c. report to an employer to whom referred by the OFS or its designee if the potential employment meets the suitability requirements;

d. accept a bona fide offer of suitable employment at a wage not less than the higher of either the applicable state or federal minimum wage.

4. Ending or Avoiding Employment and Training (E&T) Sanctions

a. Conciliation is an attempt to reach a resolution of the participant's failure to comply with the employment and training requirement prior to initiation of a sanction. The purpose of conciliation is to determine the reason the work registrant did not comply with the employment and training requirement and to provide the noncomplying individual with an opportunity to comply prior to the issuance of a notice of adverse action. The conciliation period shall begin the day following the date an individual fails to comply and shall continue for a period not to exceed 30 calendar days. A conciliation letter will be sent to the participant by the contractor/provider when conciliation begins.

b. Conciliation must be initiated by the contractor/provider when there is knowledge of the participant's failure to comply; cannot exceed 30 days, and may end sooner if the participant refused to cooperate in the process; and is considered successful when a verifiable act of compliance is performed by the participant or good cause is established. If the conciliation process is not successful, the process of sanctioning shall be initiated.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.7 (c) (2); P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:229 (April 1987), LR 13:394 (July 1987), amended by the Department of Social Services, Office of Eligibility Determinations, 14:770 (November 1988), LR 15:96 (February 1989), amended by the Department of Social Services, Office of Family Support, LR 18:245 (March 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 23:

§1943. Voluntary Quit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 44:17982 et seq., F.R. 49:39035 et seq., F.R. 51:47378, F.R. 53:31641 et seq., 7 CFR 273.7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 5:245 (August 1979), amended LR 10:864 (November 1984), LR 11:38 (January 1985), LR 12:115 (February 1986), LR 13:229 (April 1987), LR 13:394 (July 1987), repealed by the Department of Social Services, Office of Family Support, LR 23:

Subchapter H. Resource Eligibility Standards

§1947. Resources

A. ...

B. The fair market value of vehicles which is excluded in determining a household's resources will be \$4650 beginning October 1, 1996.

AUTHORITY NOTE: Promulgated in accordance with F.R. 7:55463 et seq. and 47:55903 et seq., 7 CFR 273.8, P.L. 103-66, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:

Subchapter I. Income and Deductions

§1964. Standard Shelter Estimate (re: homeless households)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with FR 56:63614, 7 CFR 273.9, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), amended LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), repealed LR 23:

§1965. Standard Utility Allowance (SUA)

A. - C. ...

D. Households can switch between the SUA and actual utility costs only at recertification.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66 and 7 CFR 273.9(c)(11), P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), amended LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:

§1980. Income Exclusions

A. Payments or allowances to provide energy assistance under any federal law, including the Department of Housing and Urban Development and the Farmers Home Administration, except that provided under Title IV-A, are excluded as income, and the expense is not deductible.

B. Earnings of an elementary or secondary student through age 17 who is a member of the household are excluded.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66, 7 CFR 273.9 (c)(11) and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), amended LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:

§1983. Income Deductions and Resource Limits

A. In determining eligibility and benefit levels, the household is allowed deductions for certain costs.

1. The earned income deduction is 20 percent of total countable gross earnings. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance.

2. The maximum shelter deduction is \$247 for households which do not include a member who is elderly or disabled. Effective January 1, 1997, the maximum shelter deduction will increase to \$250 per month. Effective October 1, 1998, the maximum shelter deduction will increase to \$275 and effective October 1, 2000, the maximum shelter deduction will increase to \$300.

A.3. - B. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:11009 et seq. and 51:11086 et seq., P.L. 99-500, P.L. 103-66, 7 CFR 273.9 and 273.10 (d) (1) (i), P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:990 (September 1994), LR 20:1363 (December 1994), LR 21:186 (February 1995), LR 23:

Subchapter J. Determining Household Eligibility and Benefit Levels

§1988. Eligibility Disqualification of Certain Recipients

Fleeing felons and probation/parole violators are ineligible for benefits.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

§1991. Initial Month's Benefits

A. Initial month means either the first month for which an allotment is issued to a household, or the first month for which an allotment is issued to a household following any period during which the household was not certified for participation in the Food Stamp Program.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.10, P.L. 103-66, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 8:9 (January 1982), amended LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:

Subchapter K. Action on Households with Special Circumstances

§1994. Alien Eligibility

A. Only the following non-citizens are eligible for benefits for a period not to exceed five years after they obtain designated alien status:

1. refugees admitted under Section 207 of the Immigration and Nationality Act (INA);
2. asylees admitted under Section 208 of the INA; and
3. aliens whose deportation has been withheld under Section 243(h) of the INA.

B. For an unlimited period, the following aliens lawfully admitted for permanent residence are eligible:

1. veterans who were honorably discharged for reasons other than alienage and their spouses or unmarried dependent children;
2. active duty personnel (other than active duty for training) and their spouses or unmarried dependent children; and
3. aliens who have worked 40 qualifying quarters of coverage under Title II of the Social Security Act or can be credited with such qualifying quarters.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

§1995. Sponsored Aliens

The full amount of income and resources of an alien's sponsor and the sponsor's spouse are counted in determining the eligibility and allotment level of a sponsored alien until the alien becomes a citizen or has worked 40 qualifying quarters of Social Security coverage.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.11, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 23:

Subchapter P. Recovery of Overissued Food Stamp Benefits

§2005. Collection Methods and Penalties

A. - B. ...

1. Mandatory disqualification periods of one year for the first offense, two years for the second, and permanently for the third offense will be imposed against any individual found to have committed an intentional program violation, regardless of whether the determination was arrived at administratively or through a court of law.

2. Individuals will be disqualified for two years for a first finding by a court that the individual used or received food stamps in a transaction involving the sale of a controlled substance, and permanently for a second such finding. Permanent disqualification will also result for the first finding by a court that an individual used or received food stamps in a transaction involving the sale of firearms, ammunition or explosives with food stamps.

3. An individual convicted of trafficking food stamp benefits of \$500 or more shall be permanently disqualified.

4. An individual shall be ineligible to participate for 10 years if found to have made a fraudulent statement or representation with respect to identity and residence in order to receive multiple benefits simultaneously.

C. The agency is required to collect any overissuance from those households still participating in the program by reducing further allotments if the household does not agree to a repayment schedule. The amount by which the agency can reduce the household's monthly allotment in the collection of overissuances which are the result of intentional program violation is limited to 20 percent of the household's entitlement or \$10 per month, whichever is greater, and 10 percent of the allotment or \$10, whichever is greater, for all other overissuances.

1. The household responsible for overissuance due to an intentional program violation is allowed 10 days to choose between cash repayment or a reduced allotment.

2. The household responsible for overissuance due to administrative error, which occurred after October 1, 1996, or due to inadvertent household error is allowed 20 days to choose between cash repayment or a reduced allotment.

D. The agency may collect any type of overissuance by using means other than allotment reduction or cash repayment.

1. One of these means is the referral to the Internal Revenue Service of delinquent food stamp claims of previous food stamp recipients for the purpose of offsetting federal income tax refunds. Effective with the 1997 offset year, the

IRS processing fee will be added to the claim and that amount will also be deducted from the individual's income tax refund.

2. Another means of collection is the withholding of Unemployment Compensation Benefits to repay an uncollected overissuance.

AUTHORITY NOTE: Promulgated in accordance with F.R. 48:6837 et seq., P.L. 97-35, 97-253, 101-624 §1746, and 102-237 §911, 7 CFR 272, 273, 276 and 277, P.L. 103-66, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:391 (April 1994), LR 20:780 (July 1994), LR 20:899 (August 1994), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:189 (February 1995), LR 22:584 (July 1996), LR 23:

Subchapter R. Claims Against Households

§2007. Loss of Benefits Penalty

This provision imposes a loss of benefits penalty on those food stamp recipients who fail to report earned income in a timely manner. When determining the amount of benefits the household should have received, the Office of Family Support shall not apply the 20 percent earned income deduction to the income the household did not timely report. By doing this, the household that benefitted from the failure to timely report is penalized since the amount it has to repay in overissuance will be increased. This provision is to be applied to allotments issued for October, 1996 and all allotments issued for subsequent months.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:36390 et seq., 7CFR 273.18; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 3:738 (December 1987), LR 14:150 (March 1988), amended by the Department of Social Services, Office of Family Support, LR 23:

Madlyn B. Bagneris
Secretary

9610#058

DECLARATION OF EMERGENCY

Department of Transportation and Development Office of the Secretary

Bridge Toll—Crescent City Connection Exemptions - Law Enforcement Personnel (LAC 70:I.513)

The Department of Transportation and Development, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R. S. 49:953(B), hereby adopts emergency rules applicable to the Crescent City Connection, Sunshine Bridge, and the ferries known as Algiers/Canal Street, Gretna/Jackson Avenue, and Lower Algiers/Chalmette.

These emergency rules are effective October 20, 1996, and shall remain in effect for the 120 day maximum period allowed or until adoption of a final rule, whichever occurs first.

The Secretary of the Department of Transportation and Development has determined that emergency rulemaking is necessary in order to eliminate the abuses of free passage as quickly as possible through immediate adoption of LAC

70:I.513. The abuse by certain law enforcement personnel has created an administrative burden which can only be eliminated through adoption of an emergency rule. In addition, it is necessary for the Department to promptly reduce the amount of possible misappropriation of tolls by toll collectors. Finally, this emergency action will improve traffic flow during peak periods by the reducing the number of vehicles which are required to stop and sign a register for free passage.

The Department is proposing, through a Notice of Intent published in this issue of the *Louisiana Register*, to adopt §513 through the normal administrative rulemaking process in R. S. 49:950 et seq.

Title 70

TRANSPORTATION AND DEVELOPMENT

Part I. Office of the General Counsel

Chapter 5. Tolls

§513. Crescent City Connection Exemptions - Law Enforcement Personnel

A. Free passage across the Crescent City Connection, Sunshine Bridge, and the ferries known as Algiers/Canal Street, Gretna/Jackson Avenue, and Lower Algiers/Chalmette shall be granted to all law enforcement personnel who are employed on a full-time basis and have law enforcement agency equipment.

B. Law enforcement agency, for purposes of R.S. 40:1392 and LAC 70:I.513 shall mean any agency of the State or its political subdivisions and the Federal Government, who are responsible for the prevention and detection of crime and the enforcement of the criminal, traffic, or highway laws of this state or similar federal laws and who are employed in this state. Officers who serve in a voluntary capacity or as honorary officers are not included.

C. Agencies which meet the above criteria shall include the Louisiana State Police, sheriff's departments of the parishes of this state, municipal police departments, levee board police departments, port police departments, and the Federal Bureau of Investigation exclusively.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:1392 and R. S. 48:26.

HISTORICAL NOTE: Promulgated by the Department of Transportation, Office of the Secretary, LR 23:

Frank M. Denton
Secretary

9610#083

DECLARATION OF EMERGENCY

Department of Transportation and Development Office of the Secretary

Bridge Toll—Crescent City Connection
Exemptions - Students (LAC 70:I.509)

The Department of Transportation and Development,
Crescent City Connection Division, in accordance with the

Administrative Procedure Act, R. S. 49:953(B), hereby adopts an emergency rule implementing certain bridge toll exemptions applicable to the Crescent City Connection.

This emergency rule is effective October 20, 1996 and shall remain in effect for the 120 day maximum period allowed or until adoption of a final rule, whichever occurs first.

The Secretary of the Department of Transportation and Development has determined that emergency rulemaking is necessary in order to eliminate the abuses of free passage as quickly as possible through an amendment to LAC 70:I.509. In addition, it is necessary for the Department to promptly eliminate vehicles which pass through the toll system without positive accountability. Further, it is necessary for the Department to reduce the amount of possible misappropriation of tolls by toll collectors. Finally, this emergency action will provide control over the amount of school buses which pass through the toll system.

The Department is proposing, through a Notice of Intent published in this issue of the *Louisiana Register*, to amend §509 through the normal administrative rulemaking process in R. S. 49:950 et seq.

Title 70

TRANSPORTATION AND DEVELOPMENT

Part I. Office of the General Counsel

Chapter 5. Tolls

§509. Crescent City Connection Exemptions - Students

A. - D. ...

E. School Buses - Requirements for Exemption

1. Free passage across the Crescent City Connection shall be granted to all clearly marked school buses at any time, upon the bus driver's delivery of a free passage coupon at the bridge toll plaza.

2. Free passage coupons for school buses shall be obtained by signed application of the official school system's transportation coordinator to the Department and Development Crescent City Connection Division office. The school system's transportation coordinator is responsible for distributing the free passage coupons to eligible school bus drivers for their school system.

3. Official school systems, for purposes of §509, are parish public school systems, private schools operating in the State of Louisiana, and parochial schools operating in the State of Louisiana.

4. bus drivers who privately own their clearly marked school buses are eligible for individual application to the Department of Transportation and Development Crescent City Connection Division office for free passage coupons. These bus drivers must attach an original letter from the school system they serve to their signed application. The letter certified that their bus serves the school system.

AUTHORITY NOTE: Promulgated in accordance with R. S. 17:158.

HISTORICAL NOTE: Promulgated by the Department of Transportation, Office of the Secretary, LR 19:1595 (December 1993), amended LR 23:

Frank M. Denton
Secretary

9610#084

DECLARATION OF EMERGENCY

Department of Treasury Board of Trustees of the State Employees Group Benefits Program

Plan Document—Private Duty Nursing; Organ
Transplants; Well Child Care

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to amend the Plan Document of Benefits.

The Board finds that it is necessary to amend the Plan Document to provide for utilization management of benefits for private duty nursing services in order to assure that such services are available and provided when medically required, to clarify benefit limitations for transportation expenses associated with organ transplant procedures in light of recent litigation, and to extend well child care benefits until attainment of age sixteen in order to promote the health and welfare of covered dependent children of employees. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amendment Number 1

Delete Article 3, Section I, Subsection F, Paragraph 14 in its entirety and leave blank.

Amendment Number 2

Amend Article 3, Section IV, Subsection J, Paragraph 4, to read as follows:

"J. Services and/or supplies not listed herein as eligible expenses may be considered covered services and/or supplies under this Section, provided that the services and/or supplies are integral to the alternative care plan and have been recommended by or to and agreed upon by PAC, the attending Physician, the Program and the Covered Person. Such services and supplies may include, but shall not be limited to:

* * *

"4. Private-duty nursing care;

* * *

Amendment Number 3

Amend Article 3, Section VIII to add Subsection NN, to read as follows:

"NN. Services of a private-duty registered nurse (R.N.) or of a private-duty licensed practical nurse (L.P.N.), except as approved in accordance with Article 3, Section IV. Routine nursing services, i.e. "floor nursing" services, provided by nurses employed by or under contract with a hospital shall be considered as part of Room and Board charges and paid

accordingly. Private-duty nursing services being provided to a Covered Person on July 1, 1985, in a non-hospital treatment setting shall constitute an eligible expense until no longer certified as Medically Necessary by the attending physician."

Amendment Number 4

Amend Article 3, Section I, Subsection F, Paragraph 25 and Subparagraph c, and add new Subparagraphs d and e, to read as follows:

"25. The Program will cover eligible expenses associated with an organ transplant procedure when the transplant recipient is a Covered Person, including expenses for patient screening, organ procurement, transportation of the organ, transportation of the patient and/or donor, surgery for the patient and donor and immunosuppressant drugs. The following conditions must be met in order for this coverage to apply:

* * *

"c. The recipient must be admitted to and the transplant surgery performed at a medical center which has an approved transplant program as determined by an appropriate governmental agency.

"d. Coverage for expenses associated with an organ transplant procedure will be subject to the same deductible, co-insurance, exclusions and other provisions which apply to other expenses that the Program covers. Reimbursement of transportation charges associated with an organ transplant procedure will be limited to the maximum reimbursement allowed for professional ambulance services, in accordance with Article 3, Section I(F)(18). In no case will the Plan cover expenses for the transportation of surgeons or family members of either the patient or donor;

"e. All benefits paid for eligible expenses associated with an organ transplant procedure, including expenses of the donor, will be applied against the lifetime maximum benefit of the transplant recipient;"

Amendment Number 5

Amend the Schedule of Benefits relative to well child care as follows:

"Well Child Care (from discharge as a newborn until attainment of age 16)

"Percentage Payable (Deductible waived) 100 %

"Maximum Benefit per calendar year per child \$35

limited to one office visit per year"

Amendment Number 6

Amend Article 1, Section I, Subsection KK to read as follows:

"KK. The term *Well-Child Care* as used herein shall mean routine physical examinations, active immunizations, check-ups and office visits to a physician, except for the treatment and/or diagnosis of a specific illness, from the time a newborn is discharged from the hospital following birth until attainment of age sixteen."

This emergency rule shall become effective on October 11, 1996, and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

James R. Plaisance
Executive Director

9610#021

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Public Oyster Seed Ground Closure

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967, and under the authority of R.S. 56:433 and 56:435.1, and the authority given the Secretary in the August 8, 1996 commission action, notice is hereby given that the Secretary of the Department of Wildlife and Fisheries hereby declares:

That oysters on some areas of the public oyster seed grounds are stressed due to a combination of high temperatures and salinities and some mortalities are occurring. The Secretary is closing an area east of the Mississippi River one-half hour after sunset Sunday, September 15, 1996. The area includes the outside edges of the land mass areas in Breton Sound, Plaquemines Parish; eastward of a line running from California Point to Pelican Island to Telegraph Point to the Microwave towers on Curfew Point and Stone Island then to Mozambique Point. The area will reopen one-half hour before sunrise November 1, 1996 when water temperatures will have improved.

James H. Jenkins, Jr.
Secretary

9610#005

Rules

RULE

Department of Agriculture and Forestry Livestock Sanitary Board

Brucellosis Eradication—Approved Vaccine (LAC 7:XXI.11734-11737)

In accordance with provisions of the Administrative Procedure Act, the Department of Agriculture and Forestry, Livestock Sanitary Board, at a duly noticed and constituted meeting of the Board held on September 25, 1996, amended rules pertaining to vaccination of heifer calves for Brucellosis. The effective date of the rules is September 25, 1996.

These rules comply with and are enabled by R.S. 3:2091 et seq.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter B. Cattle

§11734. Brucellosis Vaccination and Fee

A. Henceforth, all nonvaccinated heifer calves between 4 and 12 months of age must be vaccinated with USDA approved Brucellosis vaccine prior to being sold and there is hereby established and henceforth there shall be a fee to be paid by the Louisiana livestock auction markets of \$2 for each heifer calf vaccinated for Brucellosis, which fee shall be known as the Brucellosis vaccination fee.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:75 (February 1989), amended LR 22:960 (October 1996).

§11735. Livestock Auction Market Requirements

All cattle which are sold or offered for sale in livestock auction markets must meet the general requirements of LAC 7:XXI.11709 and the following specific requirements:

A. Brucellosis

1. - 3. ...

4. a All nonvaccinated heifer calves, between 4 and 12 months of age, must be vaccinated with USDA approved Brucellosis vaccine prior to being sold.

4. b. - 7. b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:615 (June 1985), LR 12:501 (August 1986), LR 12:598 (September 1986), LR 13:556 (October 1987), LR 14:220 (April 1988), LR 14:695 (October 1988), LR 15:810 (October 1989), LR 17:30 (January 1991), LR 18:837 (August 1992), LR 22:960 (October 1996).

§11737. Governing the Sale of Cattle in Louisiana by Livestock Dealers

All cattle which are sold or offered for sale by livestock dealers must meet the general requirements of LAC 7:XXI.11711 and the following specific requirements:

A. Brucellosis

1. - 2. ...

3. a. All heifer calves between 4 and 12 months of age must be vaccinated with USDA approved Brucellosis vaccine, prior to being sold.

3. b. ...

B. Tuberculosis. No cattle shall be purchased from tuberculosis quarantined herds unless moving directly to slaughter and must be "S" branded and accompanied by a VS Form 1-27.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:562, R.S. 3:2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615

(June 1985), amended LR 12:502 (August 1986), LR 13:558 (October 1987), LR 14:221 (April 1988), LR 17:31 (January 1991), LR 18:838 (August 1992), LR 22:960 (October 1996).

Dr. Maxwell Lea, Jr.
Executive Secretary

9610#019

RULE

Department of Economic Development Office of Commerce and Industry Financial Incentives Division

Quality Jobs Program (LAC 13:I.Chapter 42)

Under the authority of R.S. 51:2451-2461, the Board of Commerce and Industry has adopted the Louisiana Quality Jobs rules, LAC 13:I.Chapter 42.

The Board of Commerce and Industry has adopted rules in accordance with Act 1238 of 1995 which allows the state of Louisiana to provide appropriate tax incentives based on the creation of jobs and Act 39 of 1996 which changed the incentive from a cash payment to a tax credit. This is the first promulgation of the rules for both acts.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 3. Financial Incentives

Chapter 42. Quality Jobs Program

§4201. General

A. Intent of Law. To provide incentive tax credits to certain business establishments which qualify as a basic industry.

B. Program Description

1. The qualified establishment must be a basic industry with annual gross payroll for new direct jobs equal to or exceeding \$1,000,000 within three years of the anticipated date on which the establishment will first qualify for the incentive tax credit.

2. The amount of the incentive tax credits must be directly related to the new direct jobs created as a result of the qualified establishment locating in the state. The incentive tax credits cannot exceed the estimated net direct benefits which will accrue to the state as a result of the establishment locating in the state.

3. Approval by the Board of Commerce and Industry, the secretaries of the Department of Labor and the Department of Revenue and Taxation, and the governor is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996).

§4203. Definitions

The following words or terms as used in this Chapter shall have the following meaning, unless a different meaning appears from the context.

Basic Industry

1. manufacturing, as defined or classified under Division D of the Standard Industrial Classification (SIC) Manual, latest version; administrative and auxiliary services which are assigned a one-digit auxiliary code in the SIC Manual of 1, 2, or 3; if the business is assigned the one-digit auxiliary code of 3, the business qualifies only if 75 percent of the inventory processed through such warehouse is shipped out of state; or the following, if an establishment classified therein has or will have within one year, sales of at least 75 percent of its total sales, as determined by the Incentive Approval Committee to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government:

a. motor freight transportation and warehousing, as defined or classified under Major Group 42 of the SIC Manual, latest version;

b. transportation by air, as defined or classified under Major Group 45 of the SIC Manual, latest version;

c. arrangement of passenger transportation, as defined or classified under Industry Group 472 of the SIC Manual, latest version;

d. arrangement of transportation of freight or cargo, as defined or classified under Industry Group 473 of the SIC Manual, latest version;

e. insurance carriers, as defined or classified under Major Group 63 of the SIC Manual, latest version;

f. mailing, reproduction, commercial art and photography, and stenographic services, as defined or classified under Industry Group 733 of the SIC Manual, latest version;

g. services to dwellings and other buildings, as defined or classified under Industry Group 734 of the SIC Manual, latest version;

h. miscellaneous equipment rental and leasing, as defined or classified under Industry Group 735 of the SIC Manual, latest version;

i. personnel supply services, as defined or classified under Industry Group 736 of the SIC Manual, latest version;

j. computer programming, data processing, and other computer-related services, as defined or classified under Industry Group 737 of the SIC Manual, latest version;

k. miscellaneous business services, as defined or classified under Industry Group 738 of the SIC Manual, latest version;

l. medical and dental laboratories, as defined or classified under Industry Group 807 of the SIC Manual, latest version;

m. engineering, architectural, and surveying services, as defined or classified under Major Group 87 of the SIC Manual, latest version;

n. water transportation, as defined or classified under Major Group 44 of the SIC Manual, latest version;

o. communication, as defined or classified under Major Group 48 of the SIC Manual, latest version, excepting subgroups 4832 and 4833.

2. In addition to LAC 13:I.4203.A.1 above, to be considered engaged in a basic industry the establishment shall

offer within 180 days of the date it first qualifies for the incentive tax credit, a basic health benefits plan to all employees who occupy "new direct jobs" in accordance with R.S. 51:2453(1)(b). The basic health benefits plan must provide:

a. at least 50 percent of the premium is paid by the employer;

b. coverage must provide for basic hospital care which includes, but is not limited to:

i. in-patient services such as hospitalization, doctor visits in the hospital, any other care such as tests, x-rays, treatments, emergency services, blood, anesthesia, bed and board, drugs, general nursing services, medical and surgical supplies, and out-patient tests 72 hours prior to admission;

ii. out-patient services for surgery;

c. basic physician care for/but not be limited to such things as annual PAP Smear and immunization shots, but not well visits.

3. Any establishment engaged in the gaming industry shall not be eligible to apply for benefits under this Chapter.

Establishment—for purposes of this Chapter, any business entity, including but not limited to a sole proprietorship, limited liability partnership, limited liability company, partnership, corporation, or combination of corporations which have a central parent corporation which makes corporate management decisions such as those involving consolidation, acquisition, merger, or expansion.

Estimated Direct State Benefits—the tax revenues projected by the Department of Economic Development to accrue to the state as a result of new direct jobs. The factor used to determine the estimated direct state benefits is 6 percent of the gross payroll associated with the qualifying project. (This factor is widely used by Louisiana state government officials in determining economic impacts, tax projections, etc. The factor was obtained from the Legislative Fiscal Office and is also used by the State Budget Office and statewide by economists who participate in revenue projections and economic impact analyses.)

Estimated Direct State Costs—the costs projected by the Department to accrue to the state as a result of new direct jobs. The estimated direct state costs are determined from the current annual per capita state general fund expenditure being made by the state to care for its citizens multiplied by the total number of new state residents resulting from the qualified establishment locating in the state. The direct outlay of additional state funds to the qualified establishment is also a direct state cost. The average annual value of that cost over the useful life of the item purchased or built will be included in this direct cost determination. Such costs shall include but not be limited to the following:

1. the costs of education of new state resident children;
2. the costs of public health, safety, and transportation services to be provided to new state residents;
3. the costs of other state services to be provided to new state residents;
4. the costs of employee training and other state services.

Estimated Net Direct State Benefits—the estimated direct state benefits, not including revenues projected to accrue to

municipal and parish governments, less the estimated direct state costs.

Date the Establishment First Qualifies for the Incentive Tax Credit—the date the contract between the Board of Commerce and Industry and the establishment is approved and signed by the governor.

Department—for purposes of this Chapter, the Department of Economic Development.

Gross Payroll—wages paid for new direct jobs as defined herein.

Incentive Approval Committee—will consist of the following members of the Department: Financial Incentives Division Director, the Deputy Assistant Secretary of the Office of Policy and Research, the Deputy Assistant Secretary of the Office of Commerce and Industry, the General Counsel of the DED, and the Quality Jobs Program Administrator, or their representatives.

Net Benefit Rate—the estimated net direct state benefits computed as a percentage of gross payroll over the five-year contract period; however, the net benefit rate shall not exceed 5 percent. Formula:

Estimated (5 year) Direct State Benefits - Estimated (5 year) Direct State Costs = Estimated (5 year) Net Direct State Benefits

Estimated (5 year) Net Direct State Benefits / (5 year) Estimated Gross Payroll = Net Benefit Rate

New Direct Job—full-time-equivalent employment with a qualified establishment, in a job that previously did not exist in this state prior to the date of approval of the contract by the Board of Commerce and Industry.

Wages—all remuneration for services from whatever source, including commissions, bonuses, cash value of all remuneration in any medium other than cash, dismissal payments and gratuities. The latter two shall be estimated in accordance with the Internal Revenue Code and its rules and regulations. Wages shall not include the following:

1. the amount of any payment with respect to services performed after January 1, 1951, to or on behalf of an individual in its employ under a plan or system established by an employing unit which makes provision for individuals in its employ generally, or for a class or classes of such individuals, including any amount paid by an employing unit for insurance or annuities, or into a fund to provide for any such payment, on account of:

- a. retirement;
- b. sickness or accident disability;
- c. medical and hospitalization expenses in connection with sickness or accident disability;

d. death, provided the individual in its employ:

- i. has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premium or contributions to premiums paid by his employing unit;

- ii. has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit or to receive cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon the termination of such plan or system or

policy of insurance or of his services with such employment unit;

e. a bona fide thrift or savings fund, providing:

i. such payment is conditioned upon a payment of a substantial sum by such individuals in its employ;

ii. such sum paid by the employing unit cannot under the provisions of such plan be withdrawn by an individual more frequently than once in any 12-month period, except upon an individual's separation from that employment;

f. any payment made to, or on behalf of, an employee or his beneficiary under a cafeteria plan of the type described in 26 U.S.C. 125 and referred to in 26 U.S.C. 330(b)(5)(G);

g. any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such financing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under an educational assistance program as described in 26 U.S.C. 127 or a dependent care assistance program as described in 26 U.S.C. 129 and as referred to in 26 U.S.C. 330(b)(13);

h. the payment by an employing unit, without deduction from the remuneration of the individual in its employ, of the tax imposed upon such individual in its employ under Section 3101 of the federal Internal Revenue Code with respect to domestic services in a private home of the employer or for agricultural labor performed after December 31, 1980;

i. dismissal payments which the employer is not required by law or contract to make;

j. the value of any meals and lodging furnished by or on behalf of an employer to an individual in his employ, provided the meals and lodging are furnished on the business premises of the employer for the convenience of the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996).

§4205. Qualified Establishment

A. In order to become a qualified establishment under this Chapter the business entity must:

1. be engaged in a basic industry as defined in LAC 13:I.4203.A;

2. have an annual gross payroll for new direct jobs projected by the Department to equal or exceed \$1,000,000 dollars within three years of the anticipated date on which the qualified establishment will receive its first incentive tax credit. The criteria for the projection is defined in LAC 13:I.4209;

3. have a number of full-time employees working an average of 25 or more hours per week in new direct jobs equal to, or in excess of, 80 percent of the total number of new direct jobs;

4. must offer a basic health benefits plan to new employees.

B. A subunit of an entity may be classified as an establishment if engaged in an activity or service or production of a product which is demonstratively independent and separate from the entity's other activities, services, or

products and can function in the absence of any other functions of the entity. Limited interunit overlap of administrative and purchasing functions will not disqualify a subunit from consideration as an establishment by the Department. The "expansion" of a facility which already exists in Louisiana and has an existing contract under this Chapter, must be a "subunit" as defined in this Chapter. An expansion, of an entity without a contract under this Chapter, must be a stand alone operation.

1. The entity shall have a minimum payroll of \$1,000,000 and the subunit shall also have a minimum payroll of \$1,000,000.

2. Subunit of an entity must have an accounting system capable of tracking payroll, expenses, revenue, and production and must continue such an accounting system during the contract period under this Chapter.

3. The entity has not previously had a subunit in Louisiana determined to be an establishment pursuant to this Chapter. Only one subunit of an entity can receive the benefits of this program.

4. The Department will determine on a case-by-case basis, using the parameters established by statute, any circumstances under which a subunit may be considered an establishment and make those recommendations to the Board of Commerce and Industry.

5. The Department must have determined that the subunit will have a probable net gain in total employment within the original five-year contract period.

6. The Department will determine on a case-by-case basis the criteria for determining the period of time within which such gain must be demonstrated and a method for determining net gain in total employment. In order to make these determinations in an impartial and objective manner, the Department will employ nationally recognized standards (ie: the RMA Annual Statement Studies).

C. A qualified establishment cannot be engaged in the gaming industry.

D. If the applicant is determined to be qualified by the Department, the Department shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for a 10-year period and to estimate the amount of gross payroll for a 10-year period.

E. An expansion may be eligible if they meet the minimum criteria as defined in LAC 13:I.4203.A.1 and 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996).

§4207. Application Fees, Timely Filing

A. The applicant shall submit an advance notification on the prescribed form before locating the establishment or the creation of any new direct jobs in the state. All financial incentive programs for a given project shall be filed at the same time, on the same advance notification form. An advance notification fee of \$100, for each program applied for, shall be submitted with the advance notification form.

B. Application for incentive tax credits must be filed with the Office of Commerce and Industry, Box 94185, Baton Rouge, Louisiana 70804-9185 on the form prescribed. Failure

to file an application prior to location or job creation may result in the application being denied or restricted.

C. An application fee shall be submitted with the application based on the following:

1. 0.2 percent times the estimated total incentive tax credits (see application fee worksheet attached);

2. minimum application fee is \$200, maximum application fee is \$5000 for all financial incentive programs for a single project;

3. make checks payable to: Louisiana Office of Commerce and Industry.

D. The Office of Commerce and Industry reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the estimated exemption or the fee submitted is incorrect. The document may be resubmitted with the correct fee. The document will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees, for advance notifications, applications, or affidavits of final cost which have been accepted for eligible projects, shall not be refundable.

E. Applications must be submitted to the Office of Commerce and Industry at least 60 days prior to the next regular scheduled Board of Commerce and Industry Screening Committee meeting at which the application will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996).

§4209. Application Review, Analysis, Evaluation, Determination

A. The Department will assign an application number and review the advance notification form to determine if the establishment qualifies pursuant to §4203.A.

B. The application package must be complete (any exceptions must be authorized in writing by the Department). All sections of the application form must be filled in. If the application is incomplete, additional information may be requested prior to further action by the Department. The appropriate application fee must accompany the application package (see fee schedule in §4207.C).

C. Program Qualification. The Department shall determine that the establishment or a subunit qualifies as a basic industry which will have a minimum of \$1,000,000 gross payroll dollars within three years of the anticipated date on which a establishment will first qualify for the incentive tax credit.

1. The applicant must present a copy of the proposed basic health benefits plan it will offer. The Department will verify that the plan has been implemented prior to certifying continued eligibility of the establishment.

2. The Department will analyze proposed new direct jobs to determine if they meet the program criteria

3. The establishment must furnish all sources of remuneration that make up the wages which are used in the determination of the gross payroll. A listing which identifies all positions, with corresponding wages, shall be furnished to verify the gross payroll.

4. The anticipated date (the date the application will be presented to the Board of Commerce and Industry) on which the establishment will first qualify for the incentive tax credit will be determined by the Department.

D. Documentation Required. The application information shall be submitted on forms provided by the Department.

E. Analysis, Determination

1. If the applicant is determined to be a qualified establishment by the Department, the Department shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for a 10-year period and to estimate the amount of gross payroll for a 10-year period.

2. In conducting such cost/benefit analysis, the Department shall consider quantitative factors, such as the anticipated level of new tax revenues to the state along with the added cost to the state of providing services, and any other information deemed necessary or appropriate by the Department.

3. It is determined by the Department that the entity will have a probable net gain in total employment within the original five-year contract period.

4. The Department will use the number of nonresident employees in the calculation of the net benefit rate. The applicant will furnish the estimated number of Louisiana residents and nonresidents on the application form.

5. For the purpose of financial incentive programs administered by the Department, a Louisiana resident is one who has lived in the state for 30 consecutive days.

6. In no event shall incentive tax credits cumulatively exceed the estimated net direct state benefits.

F. The Department will determine the estimated direct state benefits, the estimated direct state costs, the estimated net direct state benefits, and the net benefit rate based in part on the information provided in the application.

G. Application Procedures/Steps. The Department reserves the right to require any additional information, not contemplated herein, which may be necessary in order for it to comply with its obligations under this Chapter and R.S. 51:2451-R.S. 51:2461.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996).

§4211. Application to Department of Labor

The Department will send a copy of the application and all related information to the Department of Labor. The department must obtain a letter-of-approval or a letter-of-no-objection, from the Department of Labor, prior to submitting the application to the Board of Commerce and Industry for approval. The Department of Labor may require additional information from the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996).

§4213. Application to Department of Revenue and Taxation

A. Prior to approval by the Board of Commerce and Industry, the Department will send a copy of the application and all related information to the Department of Revenue and Taxation. A copy of cost/benefit analysis performed by the Department will accompany such information. The Department of Revenue and Taxation may require additional information from the applicant.

B. The Board of Commerce and Industry must obtain a letter-of-approval or a letter-of-no-objection from the Department of Revenue and Taxation prior to approval of the application.

C. Upon approval of such an application, the Department shall notify the Department of Revenue and Taxation. The Department of Revenue and Taxation may require the qualified establishment to submit such additional information as may be necessary to administer the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996).

§4215. Commerce and Industry Recommendations to Board

A. The Department after review and analysis, will process the application information in a format suitable for presentation to the Board of Commerce and Industry.

B. The presentation of determinations (i.e., estimated direct state benefits, estimated direct state costs, estimated net direct state benefits, net benefit rate will include all formulas and assumptions made.

C. The contract must be approved by the Board of Commerce and Industry.

D. The Department will make the recommendations for approval or disapproval, and will provide information on behalf of the Department of Revenue and Taxation and the Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996).

§4217. The Contract

A. The initial contract may be approved for a period of up to five years. The contract may be renewed for up to an additional five years. The first year of the contract shall be the beginning of the taxable year in which the contract is approved and it shall terminate on the last day of the fifth taxable year. If the contract is renewed, it shall terminate on the last day of the tenth taxable year.

B. The date the establishment first qualifies for the incentive tax credit shall be the date the contract between the Board of Commerce and Industry and the establishment is approved and signed by the governor.

C. The terms of the contract for incentive tax credits shall contain the following requirements.

1. If, within three years of the date that the establishment first qualifies for the tax credit, the actual

verified gross payroll for 12 consecutive months does not equal or exceed a total of \$1,000,000, the tax liability for the current taxable period shall be increased by the amount of incentive tax credits previously allowed. If at any other time during the contract period, the actual verified gross payroll for 12 consecutive months does not equal or exceed a total of \$1,000,000, the incentive tax credits shall be suspended and shall not be resumed until such time as the actual verified gross payroll equals or exceeds the amounts specified in this Subsection. However, in no event shall incentive tax credits cumulatively exceed the estimated net direct state benefits.

2. The net benefit rate established under LAC 13:I.4205.G shall remain the same for the period of the contract.

3. The net benefit rate cannot exceed 5 percent of gross payroll.

4. If a qualified establishment, with an active contract under this Chapter, expands beyond the originally estimated gross payroll, it may make a new application for additional incentive tax credits based on the new gross payroll anticipated from the expansion.

5. In order to show continued eligibility, the contractee shall annually provide to the Department, a copy of the basic insurance plan being implemented and all data sent to the Department of Revenue and Taxation for the annual tax incentive credit. The establishment may be audited by the Department to verify such eligibility. The approved contract between the establishment and the Department shall authorize the continued incentive tax credit as long as the establishment retains its eligibility as defined in and established pursuant to this Section and R.S. 51:2453 and 2457 and within the limitations contained in this Chapter, as it existed at the time of such approval.

D. A contract of renewal will be considered by the Department subject to the same conditions as the original application. The contractee shall apply for a renewal contract at least six, but not more than 12 months prior to the expiration of the initial contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996).

§4219. Incentive Tax Credits

A. Incentive tax credits may be taken for the taxable periods specified in the contract against Louisiana corporation and personal income taxes and corporation franchise tax in an amount equal to the net benefit rate provided by the Department multiplied by that years gross payroll of new direct jobs as verified by the Department of Labor.

B. Incentive tax credits cannot exceed net direct state benefits (the estimated state benefits minus all costs to the state as a result of the establishment moving to or expanding in the state) that will accrue to the state as a result of the entity locating in Louisiana.

C. The net gain in total employment will be calculated by the contractee and certified by the Department by using the following method:

1. calculate the average monthly employment using a summary of the four Quarterly Reports of Wages Paid

(Department of Labor Form ES-4) covering the 12-month taxable period. The contractee will include copies of all Form ES-4's submitted to the Department of Labor which were used to calculate this average;

2. subtracting the average number of employees at the beginning of the project yields the new direct jobs;

3. verify, by providing a list, showing that 80 percent or more of the new direct jobs worked an average of 25 hours or more per week during that 12-month period;

4. total the gross payroll of the new direct jobs to verify that the minimum \$1,000,000 is met;

5. multiply the gross payroll by the net benefit rate to obtain the incentive tax credit for that taxable period.

D. The contractee must file with the Department on forms prescribed for the annual incentive tax credit.

E. The annual incentive tax credit must be based on the net benefit rate originally established.

F. The Department will perform an audit, if deemed necessary, to verify information provided pursuant to LAC 13:14219.C for continued eligibility.

G. Within 60 days of receipt of a completed request form for the respective year's incentive tax credit, the Department will notify the Department of Revenue and Taxation in writing of the contractee's continued eligibility.

(Note for Informational Purposes Only: Any excess of allowable credits over the aggregate tax liabilities against which such credit can be applied under this Chapter shall constitute an overpayment as defined in R.S. 47:1621(A). The contractee shall apply to the Secretary of the Department of Revenue and Taxation for refund of such overpayment at the time of filing their state tax return.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996).

§4221. Prohibited Incentives

A qualified establishment that enters a contract under this Chapter will not be eligible to receive the other credits or exemptions listed under R.S. 51:2458:

1. R.S. 47:34 (tax credit for generation of new jobs in Louisiana);

2. R.S. 47:38 and 287.757 (income tax credit for conversion of vehicles to alternate fuel usage);

3. R.S. 47:4301 through 4306 (The Industry Assistance Program—income tax, corporate franchise tax, state sales tax, and excise tax exemptions for manufacturing establishments);

4. R.S. 47:6004 (employer credit for employment of previously unemployed person);

5. R.S. 47:6009 (Louisiana basic skills training tax credit—income tax credit);

6. R.S. 47:6010 (employer income tax credit for employee alcohol and substance abuse treatment programs);

7. R.S. 51:1787 (incentives tax exemption from sales and use tax materials to be used in the construction of a building and for machinery and income tax credit for each employee in enterprise zone);

8. R.S. 47:287.748 (re-entrant jobs credit for formerly incarcerated employees—corporate income tax);

9. R.S. 47:287.749 (corporate income tax credit for new jobs);

10. R.S. 47:287.753 (neighborhood assistance income tax credit).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:966 (October 1996).

§4223. Penalties

Penalties are provided under R.S. 51:2460 for false or fraudulent information in making application, claim for tax credit, or other instrument.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:966 (October 1996).

§4225. Termination of Program

No new application or renewal application will be approved under this Chapter by the Board of Commerce and Industry after January 1, 1998.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:966 (October 1996).

§4227. Severability

If any Section or provision of this Chapter is held invalid, such invalidity shall not affect other provisions of this Chapter. Any provision of this Chapter which is in conflict with R.S. 51:2451- R.S. 51:2461 or any other statute will be invalid and will be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:966 (October 1996).

Harold Price
Assistant Secretary

9610#059

RULE

Department of Environmental Quality Office of Air Quality and Radiation Protection Radiation Protection Division

Shielding Exemptions; NRC Revisions
(LAC 33:XV.Chapters 1, 4, 6, and 10) (NE015)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Secretary has amended the Radiation Protection Division regulations, LAC 33:XV.Chapters 1, 4, 6, and 10 (NE015).

This rule reflects minor changes to Chapters 1, 4, and 10 suggested by the Nuclear Regulatory Commission (NRC)

through the Conference of Radiation Control Program Directors (CRCPD). The most detailed of these changes involves clarifying what would be considered allowable radiation exposure to "declared pregnant women."

The changes to Chapter 6 exempt certain types of medical professionals from radiation shielding evaluation requirements. These individuals were previously required to submit shielding plans (and a fee) to the division for approval. During their normal activities, these individuals do not use enough radiation to need radiation shielding. Amendments to Chapters 1, 4, and 10 are required for the state of Louisiana to remain fully compatible as an NRC Agreement State. The CRCPD suggests standards for adoption by states to meet the requirements of the federal regulations. These standards were recently amended by the CRCPD. The rule includes the changes suggested.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 1. General Provisions

§102. Definitions and Abbreviations

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that chapter.

[See Prior Text]

Calendar Quarter—any period consisting of not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January, and subsequent calendar quarters shall be so arranged that no day is included in more than one calendar quarter, and no day in any one year is omitted from inclusion within a calendar quarter. The method observed by the licensee or registrant for determining calendar quarters shall only be changed at the beginning of a year.

[See Prior Text]

Committed Effective Dose Equivalent ($H_{E,50}$)—the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ($H_{E,50} = \sum w_T H_{T,50}$).

Curie—a unit of quantity of activity. One curie (Ci) is that quantity of radioactive material that decays at the rate of 3.7×10^{10} disintegrations or transformations per second (dps or tps). Commonly used submultiples of the curie are the millicurie and the microcurie. One millicurie (mCi) is equal to 0.001 curie, which is equal to 3.7×10^7 dps. One microcurie (μ Ci) is equal to 0.000001 curie, which is equal to 3.7×10^4 dps. One curie is equal to 3.7×10^{10} becquerels.

[See Prior Text]

Instrument Traceability—the ability to show that an instrument has been calibrated at specified time intervals using a national standard or a transfer standard. If a transfer standard is used, the calibration must be at a laboratory accredited by a program that requires continuing participation in measurement quality assurance with the National Institute of Standards and Technology or other equivalent national or international programs.

[See Prior Text]

Lost or Missing Licensed (or Registered) Source of Radiation—a licensed (or registered) source of radiation whose location is unknown. This definition includes, but is not limited to, radioactive material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

[See Prior Text]

Member of the Public—any individual, except when that individual is receiving an occupational dose.

[See Prior Text]

Occupational Dose—the dose received by an individual in the course of employment in which the individual's assigned duties for the licensee or registrant involve exposure to sources of radiation, whether or not the sources of radiation are in the possession of the licensee, registrant, or other person. Occupational dose does not include dose received: from background radiation, as a patient from medical practices, from voluntary participation in medical research programs, or as a member of the public.

[See Prior Text]

Protective Apron—an apron made of radiation-attenuating materials used to reduce exposure to radiation.

Public Dose—the dose received by a member of the public from exposure to sources of radiation from licensed or registered operations. Public dose does not include occupational dose, dose received from background radiation, dose received as a patient from medical practices, or dose from voluntary participation in medical research programs.

Pyrophoric Liquid—any liquid that ignites spontaneously in dry or moist air at or below 130°F (54.4°C), or any solid material, other than one classed as an explosive, that under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or that can be ignited readily and, when ignited, burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

[See Prior Text]

Recordable Event—in medical procedures, the administration of:

1. a radiopharmaceutical or radiation without a written directive when a written directive is required;
2. a radiopharmaceutical or radiation when a written directive is required, without daily recording of each administered radiopharmaceutical dosage or radiation dose in the appropriate record;
3. a radiopharmaceutical dosage greater than 30 microcuries of either sodium iodide I-125 or I-131 when both:
 - a. the administered dosage differs from the prescribed dosage by more than 10 percent of the prescribed dosage; and
 - b. the difference between the administered dosage and prescribed dosage exceeds 15 microcuries;
4. a therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131, when the administered dosage

differs from the prescribed dosage by more than 10 percent of the prescribed dosage;

5. a teletherapy radiation dose when the calculated weekly administered dose is 15 percent greater than the weekly prescribed dose; or

6. a brachytherapy radiation dose when the calculated administered dose differs from the prescribed dose by more than 10 percent of the prescribed dose.

[See Prior Text]

Regulations of the U.S. Department of Transportation (U.S. DOT)—the regulations contained in 49 CFR 100-189.

[See Prior Text]

Sealed Source—any container of radioactive material that has been constructed in such a manner as to prevent the escape of any radioactive material.

[See Prior Text]

Source Traceability—the ability to show that a radioactive source has been calibrated either by the national standards laboratory of the National Institute of Standards and Technology (NIST) or by a laboratory that participates in a continuing measurement quality assurance program with NIST or other equivalent national or international programs.

[See Prior Text]

Traceable to National Standards—see Instrument Traceability or Source Traceability.

[See Prior Text]

Units of Exposure and Dose—

1. As used in these regulations, the unit of exposure is the coulomb per kilogram (C/kg) of air. One roentgen is equal to 2.58E-4 coulomb per kilogram of air.

2. As used in these regulations, the units of dose are:

a. *Gray (Gy)*—the SI unit of absorbed dose. One gray is equal to an absorbed dose of 1 joule per kilogram (100 rad).

b. *Rad*—the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 Gy).

c. *Rem*—the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by an appropriate quality factor (1 rem = 0.01 Sv).

d. *Sievert*—the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sieverts is equal to the absorbed dose in gray multiplied by an appropriate quality factor (1 Sv = 100 rem).

3. As used in these regulations, the quality factors for converting absorbed dose to dose equivalent are shown in Table I.

TABLE I		
QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES		
Type of Radiation	Quality Factor (Q)	Absorbed Dose Equal to a Unit Dose Equivalent ^a
X, gamma, or beta radiation and high speed electrons	1	1.0
Alpha particles, multiple-charged particles, fission fragments, and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High energy protons	10	0.1

^a This value is the absorbed dose in gray equal to 1 Sv or the absorbed dose in rad equal to 1 rem.

4. If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in sievert per hour or rem per hour, as provided in Paragraph 3 of this definition, 0.01 Sv (1 rem) of neutron radiation of unknown energies may, for purposes of these regulations, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate Q value from Table II to convert a measured tissue dose in gray or rad to dose equivalent in sievert or rem.

TABLE II			
MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT DOSE EQUIVALENT FOR MONOENERGETIC NEUTRONS			
Neutron Energy (MeV)	Quality Factor ^a (Q)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² rem ⁻¹)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² Sv ⁻¹)
2.5E-8 (Thermal)	2	980E+6	980E+8
1E-7	2	980E+6	980E+8
1E-6	2	810E+6	810E+8
1E-5	2	810E+6	810E+8
1E-4	2	840E+6	840E+8
1E-3	2	980E+6	980E+8
1E-2	2.5	1010E+6	1010E+8
1E-1	7.5	170E+6	170E+8
5E-1	11	39E+6	39E+8
1	11	27E+6	27E+8

2.5	9	29E+6	29E+8
5	8	23E+6	23E+8
7	7	24E+6	24E+8
10	6.5	24E+6	24E+8
14	7.5	17E+6	17E+8
20	8	16E+6	16E+8
40	7	14E+6	14E+8
60	5.5	16E+6	16E+8
1E+2	4	20E+6	20E+8
2E+2	3.5	19E+6	19E+8
3E+2	3.5	16E+6	16E+8
4E+2	3.5	14E+6	14E+8

^aValue of quality factor (Q) at the point where the dose equivalent is maximum in a 30-centimeter diameter cylinder tissue-equivalent phantom.

^bMonoenergetic neutrons incident normally on a 30-centimeter diameter cylinder tissue-equivalent phantom.

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996).

Chapter 4. Standards for Protection Against Radiation Subchapter A. General Provisions

§401. Purpose

A. This Chapter establishes standards for protection against ionizing radiation resulting from activities conducted pursuant to licenses or registrations issued by the division. These regulations are issued in accordance with R.S. 30:2101 et seq.

B. The requirements of this Chapter are designed to control the receipt, possession, use, transfer, and disposal of sources of radiation by any licensee or registrant so that the total dose to an individual, including doses resulting from all sources of radiation other than background radiation, does not exceed the standards for protection against radiation prescribed in this Chapter. However, nothing in this Chapter shall be construed as limiting actions that may be necessary to protect health and safety in an emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:969 (October 1996).

§403. Definitions

As used in this Chapter, the following definitions apply:

[See Prior Text]

Reference Man—a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health employees to standardize results of experiments and to relate biological insult to a common base. A description of the reference man is contained in the International Commission on Radiological Protection Report, ICRP Publication 23, "Report of the Task Group on Reference Man."

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:969 (October 1996).

§410. Occupational Dose Limits for Adults

[See Prior Text in A - B]

C. The assigned deep dose equivalent and shallow dose equivalent shall be for the portion of the body receiving the highest exposure, determined as follows:

1. the deep dose equivalent, eye dose equivalent, and shallow dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits if the individual's monitoring device was not in the region of highest potential exposure or the results of individual monitoring are unavailable;

2. when a protective apron is worn while working with medical fluoroscopic equipment and monitoring is conducted as specified in LAC 33:XV.431, the effective dose equivalent for external radiation shall be determined as follows:

a. when only one individual monitoring device is used and it is located at the neck outside the protective apron, the reported deep dose equivalent shall be the effective dose equivalent for external radiation; or

b. when only one individual monitoring device is used and it is located at the neck outside the protective apron, and the reported dose exceeds 25 percent of the limit specified in this Section, the reported deep dose equivalent value, multiplied by 0.3, shall be the effective dose equivalent for external radiation; or

c. when individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation shall be assigned the value of the sum of the deep dose equivalent reported for the individual monitoring device located at the waist under the protective apron, multiplied by 1.5, and the deep dose equivalent reported for the individual monitoring device located at the neck outside the protective apron, multiplied by 0.04.

D. Derived air concentration (DAC) and annual limit on intake (ALI) values are specified in Table I of Appendix B and may be used to determine the individual's dose and to demonstrate compliance with the occupational dose limits. See LAC 33:XV.476.

[See Prior Text in E - F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:969 (October 1996).

§411. Compliance with Requirements for Summation of External and Internal Doses

[See Prior Text in A]

B. Intake by Inhalation. If the only intake of radionuclides is by inhalation, the total effective dose equivalent limit is not exceeded if the sum of the deep dose equivalent divided by the total effective dose equivalent limit, and any one of the following, does not exceed unity:

[See Prior Text in B.1-2]

3. the sum of the calculated committed effective dose equivalents (CEDE) to all significantly irradiated organs or tissues (T) calculated from bioassay data using appropriate biological models and expressed as a fraction of the annual limit. For purposes of this requirement, an organ or tissue is deemed to be significantly irradiated if, for that organ or tissue, the product of the weighting factors, w_T , and the committed dose equivalent, $H_{T,50}$, per unit intake is greater than 10 percent of the maximum weighted value of $H_{T,50}$, that is, $w_T H_{T,50}$, per unit intake for any organ or tissue.

C. Intake by Oral Ingestion. If the occupationally exposed individual receives an intake of radionuclides by oral ingestion greater than 10 percent of the applicable oral ALI, the licensee or registrant shall account for this intake and include it in demonstrating compliance with the limits.

[See Prior Text in D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:970 (October 1996).

§414. Determination of Prior Occupational Dose

A. For each individual who may enter the licensee's or registrant's restricted area and is likely to receive, in a year, an occupational dose requiring monitoring in accordance with LAC 33:XV.431, the licensee or registrant shall:

[See Prior Text in A.1-B]

1. the internal and external doses from all previous planned special exposures; and

2. all doses in excess of the limits, including doses received during accidents and emergencies, received during the lifetime of the individual.

[See Prior Text in C - D]

E. Licensees or registrants are not required to partition the historical dose between external dose equivalent(s) and internal committed dose equivalent(s). Further, occupational exposure histories obtained and recorded on division Form DRC-4 or equivalent before January 1, 1994, may not have included effective dose equivalent, but may be used in the

absence of specific information on the intake of radionuclides by the individual.

[See Prior Text in F - G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:970 (October 1996).

§417. Dose to an Embryo/Fetus

[See Prior Text in A]

B. The licensee or registrant shall make efforts to avoid substantial variation² above a uniform monthly exposure rate to a declared pregnant woman so as to satisfy the limit in Subsection A of this Section.

C. The dose to an embryo/fetus shall be taken as the sum of:

1. the dose to the embryo/fetus from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman; and

2. the dose that is most representative of the dose to the embryo/fetus from external radiation, that is, in the mother's lower torso region, determined as follows:

a. if multiple measurements have not been made, assignment of the highest deep dose equivalent for the declared pregnant woman shall be the dose to the embryo/fetus, in accordance with LAC 33:XV.414.C; or

b. if multiple measurements have been made, the dose to the embryo/fetus shall be the assignment of the deep dose equivalent for the declared pregnant woman from the individual monitoring device which is most representative of the dose to the embryo/fetus. Assignment of the highest deep dose equivalent for the declared pregnant woman to the embryo/fetus is not required unless that dose is also the most representative deep dose equivalent for the region of the embryo/fetus.

D. If by the time the woman declares pregnancy to the licensee or registrant, the dose to the embryo/fetus has exceeded 4.5 mSv (0.45 rem), the licensee or registrant shall be deemed to be in compliance with Subsection A of this Section if the additional dose to the embryo/fetus does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy².

²The National Council on Radiation Protection and Measurements recommended in NCRP Report No. 91, "Recommendations on Limits for Exposure to Ionizing Radiation" (June 1, 1987), that no more than 0.5 mSv (0.05 rem) to the embryo/fetus be received in any one month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:970 (October 1996).

§421. Radiation Dose Limits for Individual Members of the Public

A. Each licensee or registrant shall conduct operations so that:

1. except as provided in Subsection A.3 of this Section, the total effective dose equivalent (TEDE) to individual members of the public from the licensed or registered operation does not exceed 1 mSv (0.1 rem) in a year, exclusive of the dose contribution from the licensee's or registrant's disposal of radioactive material into sanitary sewerage in accordance with LAC 33:XV.462;³

2. the dose in any unrestricted area from external sources does not exceed 0.02 mSv (0.002 rem) in any one hour; and

3. the TEDE to individual members of the public from infrequent exposure to radiation from radiation machines does not exceed 5mSv (0.5 rem).

B. If the licensee or registrant permits members of the public to have access to restricted areas, the radiation dose limits for members of the public continue to apply to those individuals.

[See Prior Text in C - E]

³Retrofit shall not be required for locations within facilities where only radiation machines existed prior to January 1, 1994, and met the previous requirements of 5 mSv (0.5 rem) in a year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:970 (October 1996).

§422. Compliance with Dose Limits for Individual Members of the Public

A. The licensee or registrant shall make, or cause to be made, surveys of radiation levels in unrestricted areas and radioactive materials in effluents released to unrestricted areas to demonstrate compliance with the dose limits for individual members of the public in LAC 33:XV.421.

B. A licensee or registrant shall show compliance with the annual dose limit, as specified in LAC 33:XV.421, by:

1. demonstrating by measurement or calculation that the TEDE to the individual likely to receive the highest dose from the licensed or registered operation does not exceed the annual dose limit; or

[See Prior Text in B.2-2.a]

b. if an individual were continuously present in an unrestricted area, the dose from external sources would not exceed 0.02 mSv (0.002 rem) in an hour and 0.5 mSv (0.05 rem) in a year.

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:971 (October 1996).

§426. Testing for Leakage or Contamination of Sealed Sources

[See Prior Text in A - C]

D. Test results shall be kept in units of becquerel or microcurie and maintained for inspection by the division.

Records of test results for sealed sources shall be made in accordance with LAC 33:XV.473.

[See Prior Text in E - G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:971 (October 1996).

Subchapter C. Surveys and Monitoring **§430. General**

[See Prior Text in A - A.2.c]

B. The licensee or registrant shall ensure that instruments and equipment used for quantitative radiation measurements, for example, dose rate and effluent monitoring, are calibrated at intervals not to exceed 12 months, except when a more frequent interval is specified in another applicable chapter of these regulations or a license condition.

[See Prior Text in C - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 20:653 (June 1994), LR 22:971 (October 1996).

§431. Conditions Requiring Individual Monitoring of External and Internal Occupational Dose

Each licensee or registrant shall monitor exposures from sources of radiation at levels sufficient to demonstrate compliance with the occupational dose limits of this Chapter.

A. Each licensee or registrant shall monitor occupational exposure to radiation and shall supply and require the use of individual monitoring devices by:

1. adults likely to receive, in one year from sources external to the body, a dose in excess of 10 percent of the limits specified in LAC 33:XV.410.A;

2. minors and declared pregnant women likely to receive, in one year from sources external to the body, a dose in excess of 10 percent of any of the applicable limits specified in LAC 33:XV.416 or 417;

3. individuals entering a "high" or "very high" radiation area; and

4. individuals working with medical fluoroscopic equipment, who will locate monitoring devices as follows:

a. an individual monitoring device used to determine the dose to an embryo/fetus of a declared pregnant woman, in accordance with LAC 33:XV.417, shall be located under the protective apron at the waist;

b. an individual monitoring device used to determine eye dose equivalent shall be located at the neck, or an unshielded location closer to the eye, outside the protective apron; and

c. when only one individual monitoring device is issued to determine the effective dose equivalent for external radiation in accordance with LAC 33:XV.410.C.2, it shall be located at the neck outside the protective apron. When a second individual monitoring device is used for the same purpose, it shall be located under the protective apron at the

waist. The second individual monitoring device is required for a declared pregnant woman.

B. Each licensee or registrant shall monitor, to determine compliance with LAC 33:XV.413, the occupational intake of radioactive material by and assess the committed effective dose equivalent (CEDE) to:

[See Prior Text in B.1 - 2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:971 (October 1996).

§432. Location of Individual Monitoring Devices

Each licensee or registrant shall ensure that individuals who are required to monitor occupational doses in accordance with LAC 33:XV.431.A wear individual monitoring devices as follows:

1. an individual monitoring device used for monitoring the dose to the whole body shall be worn at the unshielded location of the whole body likely to receive the highest exposure. When a protective apron is worn, the location of the individual monitoring device is typically at the neck (collar);

2. an individual monitoring device used for monitoring the dose to an embryo/fetus of a declared pregnant woman, in accordance with LAC 33:XV.417.A, shall be located at the waist under any protective apron being worn by the woman;

3. an individual monitoring device used for monitoring the eye dose equivalent, to demonstrate compliance with LAC 33:XV.410.A.2.a, shall be located at the neck (collar), outside any protective apron being worn by the monitored individual, or at an unshielded location closer to the eye; and

4. an individual monitoring device used for monitoring the dose to the extremities, to demonstrate compliance with LAC 33:XV.410.A.2.b, shall be worn on the extremity likely to receive the highest exposure. Each individual monitoring device shall be oriented to measure the highest dose to the extremity being monitored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 22:972 (October 1996).

§442. Use of Individual Respiratory Protection Equipment

A. If the licensee or registrant uses respiratory protection equipment to limit intakes in accordance with LAC 33:XV.441:

1. except as provided in Subsection A.2 of this Section, the licensee or registrant shall use only respiratory protection equipment that is tested and certified or has had certification extended by the National Institute for Occupational Safety and Health/Mine Safety and Health Administration (NIOSH/MSHA);

2. the licensee or registrant may use equipment that has not been tested or certified by NIOSH/MSHA, has not had certification extended by NIOSH/MSHA, or for which there is no schedule for testing or certification, provided the

licensee or registrant has submitted to the division and the division has approved an application for authorized use of that equipment, including a demonstration by testing, or a demonstration on the basis of test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use;

[See Prior Text in A.3 - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:972 (October 1996).

Subchapter F. Storage and Control of Licensed or Registered Sources of Radiation

§445. Security and Control of Licensed or Registered Sources of Radiation

A. The licensee or registrant shall secure licensed or registered radioactive material from unauthorized removal or access.

B. The licensee or registrant shall maintain constant surveillance or use devices or administrative procedures to prevent unauthorized use of licensed or registered radioactive material that is in an unrestricted area and that is not in storage.

C. The registrant shall secure registered radiation machines from unauthorized removal.

D. The registrant shall use devices or administrative procedures to prevent unauthorized use of registered radiation machines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:972 (October 1996).

§446. Reserved

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), repealed LR 22:972 (October 1996).

§452. Exceptions to Posting Requirements

[See Prior Text in A - A.2]

B. Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs in accordance with LAC 33:XV.451, provided that the requirements of LAC 33:XV.725 and 745 are met.

C. Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs, provided that:

1. a patient being treated with a permanent implant could be released from confinement in accordance with LAC 33:XV.725; or

2. a patient being treated with a therapeutic radiopharmaceutical could be released from confinement in accordance with LAC 33:XV.725.

D. A room or area is not required to be posted with a caution sign because of the presence of a sealed source, provided that the radiation level at 30 centimeters from the surface of the sealed source container or housing does not exceed 0.05 mSv (0.005 rem) per hour.

E. A room or area is not required to be posted with a caution sign because of the presence of radiation machines used solely for diagnosis in the healing arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:972 (October 1996).

§455. Procedures for Receiving and Opening Packages

[See Prior Text in A - A.2]

B. Each licensee or registrant shall:

1. monitor the external surfaces of a labeled⁵ package for radioactive contamination unless the package contains only radioactive material in the form of gas or in special form, as defined in LAC 33:XV.102;

[See Prior Text in B.2 - 3]

C. The licensee or registrant shall perform the monitoring required by Subsection B of this Section as soon as practical after receipt of the package, but not later than three hours after the package is received at the licensee's or registrant's facility, if it is received during the licensee's or registrant's normal working hours, or if there is evidence of degradation of package integrity, such as a package that is crushed, wet, or damaged. If a package is received after working hours and has no evidence of degradation of package integrity, the package shall be monitored no later than three hours from the beginning of the next working day.

[See Prior Text in D - F]

⁵Labeled means labeled with a Radioactive White I, Yellow II, or Yellow III label as specified in U.S. Department of Transportation regulations, 49 CFR 172.403 and 172.436-440.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:973 (October 1996).

§463. Treatment or Disposal by Incineration

A licensee or registrant may treat or dispose of licensed or registered sources of radiation by incineration only in the form and concentration specified in LAC 33:XV.464 or as specifically approved by the division in accordance with LAC 33:XV.461.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:973 (October 1996).

§486. Notification of Incidents

[See Prior Text in A - B.2]

C. Licensees or registrants shall make the reports required by Subsections A and B of this Section through initial contact by telephone to the division and shall confirm the initial contact by telegram, mailgram, or facsimile to the division.

D. The licensee or registrant shall prepare each report filed with the division in accordance with this Section so that names of individuals who have received exposure to sources of radiation are stated in a separate and detachable portion of the report.

E. The provisions of this Section do not apply to doses that result from planned special exposures, provided such doses are within the limits for planned special exposures and are reported in accordance with LAC 33:XV.488.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:973 (October 1996).

APPENDIX B

ANNUAL LIMITS ON INTAKE (ALI) AND DERIVED AIR CONCENTRATIONS (DAC) OF RADIONUCLIDES FOR OCCUPATIONAL EXPOSURE; EFFLUENT CONCENTRATIONS; CONCENTRATIONS FOR RELEASE TO SANITARY SEWERAGE

Introduction

For each radionuclide, Table I indicates the chemical form which is to be used for selecting the appropriate ALI or DAC value. The ALIs and DACs for inhalation are given for an aerosol with an activity median aerodynamic diameter (AMAD) of 1 μ m, micron, and for three classes (D,W,Y) of radioactive material, which refer to their retention (approximately days, weeks, or years) in the pulmonary region of the lung. This classification applies to a range of clearance half-times for D if less than 10 days, for W from 10 to 100 days, and for Y greater than 100 days. The class (D, W, or Y) given in the column headed "Class" applies only to the inhalation ALIs and DACs given in Table I, columns 2 and 3. Table II provides concentration limits for airborne and liquid effluents released to the general environment. Table III provides concentration limits for discharges to sanitary sewerage systems.

Note: The values in Tables I, II, and III are presented in the computer "E" notation. In this notation a value of 6E-02 represents a value of 6×10^{-2} or 0.06, 6E+2 represents 6×10^2 or 600, and 6E+0 represents 6×10^0 or 6.

Table I "Occupational Values"

Note that the columns in Table I of this Appendix captioned, "Oral Ingestion ALI," "Inhalation," "ALI," and "DAC," are applicable to occupational exposure to radioactive material.

The ALIs in this Appendix are the annual intakes of a given radionuclide by the reference man, which would result in either a committed effective dose equivalent (CEDE) of 0.05 Sv (5 rem), stochastic ALI, or a committed dose equivalent of 0.5 Sv (50 rem) to an organ or tissue, non-stochastic ALI. The stochastic ALIs were derived to result in a risk, due to irradiation of organs and tissues, comparable to the risk associated with deep dose equivalent to the whole body of 0.05 Sv (5 rem). The derivation includes multiplying the committed dose equivalent to an organ or tissue by a weighting factor, w_T . This weighting factor is the proportion of the risk of stochastic effects resulting from irradiation of the organ or tissue, T, to the total risk of stochastic effects when the whole body is irradiated uniformly. The values of w_T are listed under the definition of weighting factor in LAC 33:XV.403. The non-stochastic ALIs were derived to avoid non-stochastic effects, such as prompt damage to tissue or reduction in organ function.

A value of $w_T = 0.06$ is applicable to each of the five organs or tissues in the "remainder" category receiving the highest dose equivalents, and the dose equivalents of all other remaining tissues may be disregarded. The following portions of the GI tract—stomach, small intestine, upper large

intestine, and lower large intestine—are to be treated as four separate organs.

Note that the dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the CEDE but are subject to limits that must be met separately.

When an ALI is defined by the stochastic dose limit, this value alone is given. When an ALI is determined by the non-stochastic dose limit to an organ, the organ or tissue to which the limit applies is shown, and the ALI for the stochastic limit is shown in parentheses. Abbreviated organ or tissue designations are used:

1. LLI wall = lower large intestine wall;
2. St wall = stomach wall;
3. Blad wall = bladder wall; and
4. Bone surf = bone surface.

The use of the ALIs listed first, the more limiting of the stochastic and non-stochastic ALIs, will ensure that non-stochastic effects are avoided and that the risk of stochastic effects is limited to an acceptably low value. If, in a particular situation involving a radionuclide for which the non-stochastic ALI is limiting, the use of that non-stochastic ALI is considered unduly conservative, the licensee or registrant may use the stochastic ALI to determine the committed effective dose equivalent. However, the licensee or registrant shall also ensure that the 0.5 Sv (50 rem) dose equivalent limit for any organ or tissue is not exceeded by the sum of the external deep dose equivalent plus the internal committed dose equivalent to that organ, not the effective dose. For the case where there is no external dose contribution, this would be demonstrated if the sum of the fractions of the nonstochastic ALIs (ALI_{ns}) that contribute to the committed dose equivalent to the organ receiving the highest dose does not exceed unity, that is, $\sum (\text{intake [in } \mu\text{Ci]} \text{ of each radionuclide} / ALI_{ns}) \leq 1.0$. If there is an external deep dose equivalent contribution of H_d , then this sum must be less than $1 - (H_d/50)$, instead of ≤ 1.0 .

Note that the dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the committed effective dose equivalent but are subject to limits that must be met separately.

The derived air concentration (DAC) values are derived limits intended to control chronic occupational exposures. The relationship between the DAC and the ALI is given by:

$$DAC = \frac{ALI \text{ (in } \mu\text{Ci})}{(2000 \text{ hrs/working yr} \times 60 \text{ min/hr} \times 2 \times 10^4 \text{ ml/min})}$$

$$= \frac{ALI}{2.4 \times 10^4} \mu\text{Ci/ml}$$

where 2×10^4 ml is the volume of air breathed per minute at work by the reference man under working conditions of light work.

The DAC values relate to one of two modes of exposure: either external submersion or the internal committed dose equivalents resulting from inhalation of radioactive materials. DACs based upon submersion are for immersion in a semi-infinite cloud of uniform concentration and apply to each radionuclide separately.

The ALI and DAC values include contributions to exposure by the single radionuclide named and any ingrowth of daughter radionuclides produced in the body by decay of the parent. However, intakes that include both the parent and daughter radionuclides should be treated by the general method appropriate for mixtures.

The values of ALI and DAC do not apply directly when the individual both ingests and inhales a radionuclide, when the individual is exposed to a mixture of radionuclides by either inhalation or ingestion or both, or when the individual is exposed to both internal and external irradiation. See LAC 33:XV.411. When an individual is exposed to radioactive materials which fall under several of the translocation classifications of the same radionuclide (such as Class D, Class W, or Class Y), the exposure may be evaluated as if it were a mixture of different radionuclides.

It should be noted that the classification of a compound as Class D, W, or Y is based on the chemical form of the compound and does not take into account the radiological half-life of different radioisotopes. For this reason, values are given for Class D, W, and Y compounds, even for very short-lived radionuclides.

Table II "Effluent Concentrations"

The columns in Table II of this Appendix captioned "Air" and "Water" are applicable to the assessment and control of dose to the public, particularly in the implementation of the provisions of LAC 33:XV.422. The concentration values given in Columns 1 and 2 of Table II are equivalent to the radionuclide concentrations which, if inhaled or ingested continuously

over the course of a year, would produce a total effective dose equivalent of 0.5 mSv (0.05 rem).

Consideration of non-stochastic limits has not been included in deriving the air and water effluent concentration limits because non-stochastic effects are presumed not to occur at or below the dose levels established for individual members of the public. For radionuclides, where the non-stochastic limit was governing in deriving the occupational DAC, the stochastic ALI was used in deriving the corresponding airborne effluent limit in Table II. For this reason, the DAC and airborne effluent limits are not always proportional, as was the case in Appendix A of Part D of the eighth edition of Volume I of the *Suggested State Regulations for Control of Radiation*.

The air concentration values listed in Table II, Column 1 were derived by one of two methods. For those radionuclides for which the stochastic limit is governing, the occupational stochastic inhalation ALI was divided by 2.4×10^4 , relating the inhalation ALI to the DAC, as explained above, and then divided by a factor of 300. The factor of 300 includes the following components: a factor of 50 to relate the 0.05 Sv (5 rem) annual occupational dose limit to the 1 mSv (0.1 rem) limit for members of the public; a factor of three to adjust for the difference in exposure time and the inhalation rate for a worker and that for members of the public; and a factor of two to adjust the occupational values, derived for adults, so that they are applicable to other age groups.

For those radionuclides for which submersion, that is external dose, is limiting, the occupational DAC in Table I, Column 3 was divided by 219. The factor of 219 is composed of a factor of 50, as described above, and a factor of 4.38 relating occupational exposure for 2,000 hours per year to full-time exposure (8,760 hours per year). Note that an additional factor of two for age considerations is not warranted in the submersion case.

The water concentrations were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by 7.3×10^7 . The factor of 7.3×10^7 (ml) includes the following components: the factors of 50 and 2 described above and a factor of 7.3×10^5 (ml) which is the annual water intake of the reference man.

Note 2 of this Appendix provides groupings of radionuclides which are applicable to unknown mixtures of radionuclides. These groupings, including occupational inhalation ALIs and DACs, air and water effluent concentrations and releases to sewer, require demonstrating that the most limiting radionuclides in successive classes are absent. The limit for the unknown mixture is defined when the presence of one of the listed radionuclides cannot be definitely excluded as being present, either from knowledge of the radionuclide composition of the source or from actual measurements.

Table III "Releases to Sewers"

The monthly average concentrations for release to sanitary sewerage are applicable to the provisions in LAC 33:XV.462. The concentration values were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by 7.3×10^6 (ml). The factor of 7.3×10^6 (ml) is composed of a factor of 7.3×10^5 (ml), the annual water intake by a reference man, and a factor of 10, such that the concentrations, if the sewage released by the licensee were the only source of water ingested by a reference man during a year, would result in a committed effective dose equivalent of 5 mSv (0.5 rem).

LIST OF ELEMENTS - ATOMIC NUMBERS		
Name	Symbol	Number
Actinium	Ac	89
Aluminum	Al	13
Americium	Am	95
Antimony	Sb	51
Argon	Ar	18
Arsenic	As	33
Astatine	At	85
Barium	Ba	56

Berkelium	Bk	97
Beryllium	Be	4
Bismuth	Bi	83
Bromine	Br	35
Cadmium	Cd	48
Calcium	Ca	20
Californium	Cf	98
Carbon	C	6
Cerium	Ce	58
Cesium	Cs	55
Chlorine	Cl	17
Chromium	Cr	24
Cobalt	Co	27
Copper	Cu	29
Curium	Cm	96
Dysprosium	Dy	66
Einsteinium	Es	99
Erbium	Er	68
Europium	Eu	63
Fermium	Fm	100
Fluorine	F	9
Francium	Fr	87
Gadolinium	Gd	64
Gallium	Ga	31
Germanium	Ge	32
Gold	Au	79
Hafnium	Hf	72
Holmium	Ho	67
Hydrogen	H	1
Indium	In	49
Iodine	I	53
Iridium	Ir	77
Iron	Fe	26
Krypton	Kr	36
Lanthanum	La	57
Lead	Pb	82
Lutetium	Lu	71
Magnesium	Mg	12
Manganese	Mn	25
Mendelevium	Md	101

Mercury	Hg	80
Molybdenum	Mo	42
Neodymium	Nd	60
Neptunium	Np	93
Nickel	Ni	28
Niobium	Nb	41
Osmium	Os	76
Palladium	Pd	46
Phosphorus	P	15
Platinum	Pt	78
Plutonium	Pu	94
Polonium	Po	84
Potassium	K	19
Praseodymium	Pr	59
Promethium	Pm	61
Protactinium	Pa	91
Radium	Ra	88
Radon	Rn	86
Rhenium	Re	75
Rhodium	Rh	45
Rubidium	Rb	37
Ruthenium	Ru	44
Samarium	Sm	62
Scandium	Sc	21
Selenium	Se	34
Silicon	Si	14
Silver	Ag	47
Sodium	Na	11
Strontium	Sr	38
Sulfur	S	16
Tantalum	Ta	73
Technetium	Tc	43
Tellurium	Te	52
Terbium	Tb	65
Thallium	Tl	81
Thorium	Th	90
Thulium	Tm	69
Tin	Sn	50
Titanium	Ti	22
Tungsten	W	74

Uranium	U	92
Vanadium	V	23
Xenon	Xe	54
Ytterbium	Yb	70
Yttrium	Y	39
Zinc	Zn	30
Zirconium	Zr	40

[See Prior Text in Table 1 - Appendix F]

Chapter 6. X-rays In The Healing Arts

§603. General and Administrative Requirements

[See Prior Text in A - B.3.g]

C. Plans Review

1. Except for dedicated mammography radiographic systems, podiatric radiographic systems, panoramic dental radiographic systems, and intraoral dental radiographic systems, prior to construction, the floor plans and equipment arrangement of all new installations, or modifications of existing installations, utilizing x-rays for diagnostic or therapeutic purposes shall be submitted to the division for review and approval. The required information is specified in Appendices A and B of this Chapter.

2. The floor plans and equipment arrangement for all new, or modifications of existing, installations for veterinary x-ray systems shall be reviewed for adequacy by the division on a case-by-case basis.

3. The division may require the applicant to utilize the services of a qualified expert to determine the shielding requirements prior to the plans review and approval.

4. The approval of such plans shall not preclude the requirement of additional modifications should a subsequent analysis of operating conditions indicate the possibility of an individual receiving a dose in excess of the limits prescribed in LAC 33:XV.410, 416, and 421.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:976 (October 1996).

Chapter 10. Notices, Instructions, and Reports to Workers; Inspections

§1012. Instructions To Workers

A. All individuals working in or frequenting any portion of a restricted area shall be kept informed of the storage, transfer, or use of sources of radiation in the licensee's or registrant's workplace.

[See Prior Text in B]

C. All individuals working in or frequenting any portion of a restricted area shall be instructed in, and instructed to observe, to the extent within the worker's control, the applicable provisions of the Louisiana Radiation Protection Regulations (LAC 33:XV) and licenses for the protection of personnel from exposures to radiation or radioactive material.

[See Prior Text in D - F]

G. The extent of the instructions required by Subsections A - F of this Section shall be commensurate with potential radiological health protection problems present in the workplace.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:976 (October 1996).

§1013. Notifications and Reports to Individuals

[See Prior Text in A]

B. Each licensee or registrant shall furnish to all workers, annually, a written report of the worker's exposure to radiation or radioactive material as shown in records maintained by the licensee or registrant in accordance with LAC 33:XV.476.

C. Each licensee or registrant shall furnish to each worker a written report of the worker's exposure (mrem) to radiation or radioactive material upon termination of employment. Such report shall be furnished within 30 days from the time of termination of employment or within 30 days after the exposure of the individual has been determined by the licensee or registrant, whichever is later. The report shall cover each calendar quarter in which the worker's activities involved exposure to sources of radiation and shall include the dates and locations of work under the license or registration in which the worker participated.

D. When a licensee or registrant is required, in accordance with LAC 33:XV.486, 487, or 488, to report to the division any exposure of an individual to radiation or radioactive material, the licensee or the registrant shall also provide the individual a written report on his or her exposure data included therein. Such reports shall be transmitted at a time not later than the transmittal to the division.

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:976 (October 1996).

Gustave Von Bodungen
Assistant Secretary

9610#055

RULE

Department of Environmental Quality Office of the Secretary

Emergency Response (LAC 33:I.Chapter 69) (OS018A)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Secretary has amended the Office of the Secretary regulations, LAC 33:I.Chapter 69 (OS018A).

The rule establishes requirements for responding to off-site releases and potential releases that are expected to immediately endanger the health and safety of the public or the environment. The requirements include provisions for transportation and temporary storage of material resulting from the cleanup or abatement of off-site emergency conditions. The regulation is needed to create a regulatory framework whereby pollutants resulting from an emergency response situation can be managed in a responsible and efficient manner.

A previous proposed rule, OS018, appeared in the *Louisiana Register* on August 20, 1995 and was withdrawn on January 29, 1996. This rule, OS018A, reflects many of the public comments and suggestions regarding the previous proposed rule, OS018.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 4. Emergency Response Regulations

Chapter 69. Emergency Response Regulations

§6901. Applicability

The requirements of these regulations apply to:

1. the release or potential release of a pollutant resulting from an off-site emergency condition, as defined by this Chapter;
2. any incident that has been declared an emergency by the Secretary in accordance with R.S. 30:2033; and
3. the transportation, receipt, and storage of material resulting from the cleanup and/or abatement of an off-site emergency condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:977 (October 1996).

§6903. Exclusions

The requirements of these regulations do not apply to spills, cleanup, and/or abatement of materials subject to management under the Oil Spill Prevention and Response Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:977 (October 1996).

§6905. Definitions

The following terms as used in this Chapter shall have the meaning listed below:

Act—the Louisiana Environmental Quality Act, R.S. 30:2001 et seq.

Administrative Authority—the Secretary of the Department of Environmental Quality, or his or her delegate, including members of the Department's Emergency Response Section.

Cleanup—all actions taken to contain, collect, control, identify, analyze, treat, disperse, remove, or dispose of

pollutants resulting from a release associated with an off-site emergency condition.

Cleanup Costs—all costs incurred by the state or any of its political subdivisions, or their agents, or by any other person participating with the approval of the administrative authority in the cleanup of pollutants resulting from an off-site emergency condition.

Department—the Department of Environmental Quality.

Emergency Abatement—action taken to prevent or control a release or potential release of pollutants that could reasonably be expected to cause an off-site emergency condition.

Emergency Condition—any condition that could reasonably be expected to endanger the health and safety of the public, cause significant adverse impact to the land, water, or air environment, or cause severe damage to property. This definition includes transportation related events, abandoned containers, barrels, and other receptacles.

Emergency Response Storage Facility—a facility used for storage of material generated from the cleanup and/or abatement of an off-site emergency condition.

Off-Site—areas beyond the property boundary of the facility, and areas within the property boundary to which the public has routine and unrestricted access during or outside business hours.

Pollutant—any substance introduced into the environment of the state by any means that would tend to degrade the chemical, physical, or biological integrity of such environment.

Release—the accidental or intentional spilling, pumping, pouring, emitting, escaping, leaching, or dumping of any pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release.

Responsible Person—any person owning, handling, storing, transporting, or managing a pollutant that results in an off-site emergency condition. This shall include bailees, carriers, and any other person in control of a pollutant and who may be operating under a lease, contract, or other agreement with the legal owner thereof. For the purposes of this Chapter, responsible persons do not include those innocent landowners who exercise no control or ownership over the materials or activities giving rise to an off-site emergency condition.

Secretary—the Secretary of the Department of Environmental Quality.

Transportation—the movement of solid, liquid, or hazardous reusable materials or wastes. This includes, but is not limited to, the transportation of cleanup materials from the site of an off-site emergency condition to a point of collection authorized by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:977 (October 1996).

§6907. Notification Procedures for Emergencies

Upon learning of an off-site emergency condition, the responsible person having control over the material shall notify the administrative authority, if notification is required, in accordance with LAC 33:I.Chapter 39.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:977 (October 1996).

§6909. Emergency Abatement and/or Cleanup Responsibilities

A. In the event of an off-site emergency condition resulting in the release or potential release of a pollutant, any responsible person having control over the material shall immediately commence clean up of the release or commence emergency abatement activities to prevent or control the release.

B. Abatement and/or cleanup of an off-site emergency condition identified under Subsection A of this Section shall be to the extent necessary to prevent a hazard to human health and safety and the environment. However, nothing in this Section shall preclude the administrative authority from requiring additional cleanup or remediation measures under the hazardous waste, solid waste, or other applicable department regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:978 (October 1996).

§6911. Responsible Person Unwilling or Unknown

A. If a responsible person required to clean up or conduct abatement measures under LAC 33:I.6909 fails or refuses to do so, or does not complete abatement and/or cleanup, the Secretary may declare that an emergency exists in accordance with R.S. 30:2033 and abate the emergency and/or cleanup the release or contract for the emergency abatement and/or cleanup of the release or potential release.

B. In the event of an off-site emergency condition resulting in release or potential release of a pollutant in which the responsible person is unknown, the Secretary may declare that an emergency exists in accordance with R.S. 30:2033 and initiate emergency abatement and/or cleanup as necessary to protect public health and welfare and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14),(15), 30:2015, and 30:2033.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:978 (October 1996).

§6913. Reimbursement for Expenses of Emergency Abatement and/or Cleanup

The administrative authority may seek reimbursement for any emergency abatement and/or cleanup costs incurred by the state by any method provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15) and 30:2015.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:978 (October 1996).

§6915. Transportation, Receipt, and Storage of Material from the Cleanup and/or Abatement of an Off-site Emergency Condition

A. Transportation, receipt, and storage of any material generated as a result of the cleanup and/or abatement of any off-site emergency condition, and not specifically authorized

by the Louisiana Administrative Code, Title 33, Subpart I, may be authorized by the administrative authority.

B. These regulations supplement and do not replace requirements of 49 CFR parts 100-177 that remain fully applicable to the transportation of hazardous materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:978 (October 1996).

§6917. Easements, Rights of Way, Eminent Domain

In the event of a declared emergency condition, the Secretary shall have the authority to claim comprehensive easement, rights of way, and eminent domain over the immediate site or the location of the emergency condition and all other areas sufficient to secure, contain, cleanup, or abate the emergency condition in accordance with R.S. 30:2036.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14),(15) and 2036.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:978 (October 1996).

§6919. Emergency Response Storage Facility Requirements

This Section applies to emergency response storage facilities not otherwise authorized by the Louisiana Administrative Code, Title 33.

A. Storage Restrictions

1. Storage of material generated from the abatement and/or cleanup of an off-site emergency condition may be authorized by the administrative authority for up to 90 days. Storage of such material maintained in an emergency response facility shall be in accordance with the requirements in Subsection B of this Section.

2. If required, due to unforeseen, temporary, or uncontrollable circumstances, the administrative authority may authorize storage for longer than 90 days. No extension granted in accordance with this Section may exceed 30 days in duration.

B. Management of Tanks, Containers, and Storage Area. Tanks or containers used to store material generated from the abatement and/or cleanup of an off-site emergency condition shall be managed in the following manner:

1. a legible label shall be affixed to the outside of the tank or container so that it is readable from the aisle adjacent to where the container is stored and shall contain all pertinent information known regarding its contents including, but not limited to, date of incident, location of the release, emergency abatement/cleanup material transporter name, if known, and, if applicable, EPA identification number, generator name and, if applicable, EPA identification number or temporary Louisiana identification number, waste code, and U.N. number;

2. if a tank or container is not in good condition (e.g., bulging, severe rusting, apparent structural defects) or if it begins to leak, the owner or operator of the emergency response storage facility shall transfer the contents of the tank or container to a tank or container that is in good condition or manage the tank or container's contents in some other way that complies with the requirements of this Section;

3. tanks or containers used shall be made of or lined with materials that will not react with, or be incompatible with, the material to be stored so that the ability of the tank or container to contain the material is not impaired;

4. containers shall not be opened, handled, or stored in a manner that may rupture the container or cause it to leak;

5. at least weekly the emergency response storage facility owner or operator shall inspect tanks, containers, and areas where containers are stored, looking for leaking or deteriorating tanks or containers and at the overall condition of the storage area. Any problems occurring in the storage area shall be immediately corrected by the owner or operator upon discovery; and

6. tanks or containers used for the storage of material generated from the abatement and/or cleanup of an off-site emergency condition shall be free of any incompatible residue from any previous contents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:978 (October 1996).

§6921. Reporting Requirements

No later than 30 days after material from the cleanup and/or abatement of an off-site emergency condition is removed from an emergency response storage facility, the owner or operator of the facility shall submit to the Emergency Response Section located in Baton Rouge, Louisiana, a written report detailing the ultimate disposition of the material. The report shall reference the department-issued incident number. Other information in the report may include location and date of the emergency incident, name and address of the company transporting the pollutant that resulted from the emergency incident, name and location of the facility where the pollutant is/was stored, and name and location of the facility accepting the pollutant for disposal, recycling, or reuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:979 (October 1996).

§6923. Characterization of Stored Material

A. The responsible person must determine the character (chemical composition and regulatory status) of any material stored in an emergency response storage facility before the time allowed for storage by LAC 33:I.6919 has elapsed and prior to any subsequent management activities, except as authorized by the administrative authority.

B. Except as otherwise provided by this Chapter, materials generated from the abatement and/or cleanup of an off-site emergency condition must be managed according to the requirements of all applicable regulations including, but not limited to, LAC 33:V and VII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14),(15) and 30:2025.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:979 (October 1996).

§6925. Enforcement

A. Failure to Comply. Failure of any person to comply with any of the provisions of these regulations or order issued hereunder constitutes a violation of the act.

B. Investigations: Purposes, Notice. Investigations may be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the persons or parties involved. The results of an investigation shall be given to any complainant who provided the information prompting the investigation, upon written request, and if advisable, to the person under investigation if the identity of such person is known.

C. Development of Facts, Reports

1. The administrative authority may conduct inquiries and develop facts in investigations by staff investigatory procedures or formal investigations and may conduct inspections and examinations of facilities and records. The administrative authority or a presiding officer may hold public hearings and/or issue subpoenas in accordance with R.S. 30:2025(I) and require attendance of witnesses and production of documents, or may take such other action as may be necessary and authorized by the act or rules promulgated by the administrative authority. At the conclusion of the investigation all facts and information concerning any alleged violation shall be compiled by the staff of the Department. A report of the investigation shall be presented to the administrative authority for use in possible enforcement proceedings. Any complainant who provided the information prompting the investigation shall be notified of its results.

2. The administrative authority shall have access to and be allowed to copy any records that the Department or its representative finds necessary for the enforcement of these regulations. For records maintained in either a central or private office that is open only during normal office hours and is closed at the time of the inspection, the records shall be made available as soon as the office is open, but in no case later than noon the next working day.

D. Enforcement Action. When the administrative authority determines that a violation of the act or these regulations has occurred or is about to occur, he shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14),(15) and 30:2025.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:979 (October 1996).

Herman Robinson
Assistant Secretary

9610#067

RULE

Department of Environmental Quality Office of Solid and Hazardous Waste Hazardous Waste Division

RCRA IV Authorization Federal Package
(LAC 33:V.Chapters 1, 5, 15, 22, 30, 31,
37, 40, 41, 43, and 49)(HW050)

(Editor's Note: In the final rule publication of HW050, published on pages 830 - 840 of the September 20, 1996 issue of the *Louisiana Register*, a Chapter heading was partially printed on page 834. The complete heading should read "Chapter 22. Prohibitions on Land Disposal".)

9610#068

RULE

Department of Environmental Quality Office of Solid and Hazardous Waste Hazardous Waste Division

Standards to Control Metals Emissions
(LAC 33:V.3013) (HW053)

(Editor's Note: A portion of the following rule, published on pages 813 through 830 in the September 1996 *Louisiana Register*, is being repromulgated to correct text published out of sequence.)

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3013. Standards to Control Metals Emissions

* * *

[See Prior Text in A. - B.8]

C. Tier II Emission Rate Screening Limits. Emission rate screening limits are specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. Criteria for facilities that are not eligible to comply with the screening limits are provided in Subsection B.7 of this Section.

1. Noncarcinogenic Metals. The emission rates of antimony, barium, lead, mercury, thallium, and silver shall not exceed the screening limits specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter.

2. Carcinogenic Metals. The emission rates of arsenic, cadmium, beryllium, and chromium shall not exceed values derived from the screening limits specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter. The emission rate of each of these metals is limited to a level such that the sum of the ratios of the actual emission rate to the emission rate screening limit specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, shall not exceed 1.0, as provided by the following equation:

$$\sum_{i=1}^n \frac{AER_{(i)}}{ERSL_{(i)}} \leq 1.0$$

where:

n = number of carcinogenic metals

AER = actual emission rate for metal "i"

ERSL = emission rate screening limit provided by 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, for metal "i"

* * *

[See Prior Text in C.3 - I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:824 (September 1996), repromulgated LR 22:980 (October 1996).

Mike Strong
Assistant Secretary

9610#006

RULE

Department of Health and Hospitals Board of Examiners of Psychologists

Public Display of Board's Address (LAC 46:LXIII.1903)

In accordance with R.S. 49:950 et seq., the Department of Health and Hospitals, Board of Examiners of Psychologists amends Chapter 19, Public Information.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Chapter 19. Public Information

§1903. Public Display of Board's Address

There shall at all times be prominently displayed in the place(s) of business of each licensee regulated under this law the official sign provided by the Board containing the name, mailing address, and telephone number of the Board along with the following statement:

BE IT KNOWN THAT THE LOUISIANA STATE BOARD
OF EXAMINERS OF PSYCHOLOGISTS RECEIVES
QUESTIONS REGARDING THE PRACTICE OF
PSYCHOLOGY.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 15:87 (February 1989), amended LR 22:980 (October 1996).

Brenda C. Rockett
Executive Director

9607#029

RULE

Department of Health and Hospitals Board of Nursing

Registration and Licensure Fees (LAC 46:XLVII.3361)

The Board of Nursing (Board), pursuant to the authority vested in the Board by R.S. 37:918(12), Act 95 of the 1966 Special Legislative Session, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its rules and regulations, LAC 46:XLVII.3361.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General Rules

Subchapter D. Registration and Licensure

§3361. Fees for Registration and Licensure

A. The Board shall collect, in advance, fees for registration and licensure services as follows:

1. Registered Nurse:
 - a. Examination, registration, work permit, and initial licensure \$35
 - b. Repeat examination \$35
 - c. Qualifying examination \$35
 - d. Renewal of license \$25
 - e. Reinstatement of lapsed license \$50
 - f. Verification to other states \$15
 - g. Endorsement \$50
 - h. Duplicate renewal application fee \$10
 - i. Duplicate license \$10

2. Advanced Practice Registered Nurse. In addition to the fees for Registered Nurse licensure, the Board shall collect, in advance, fees for registration and licensure services as follows:

- a. Initial licensure \$75
- b. Renewal of license \$45
- c. Reinstatement of a lapsed license \$90
- d. Verification to other states \$15
- e. Endorsement \$75
- f. Duplicate renewal application fee \$10
- g. Duplicate license \$10

B. Fees for Returned Checks

1. The Board shall collect a \$25 fee for returned checks for any of the fees discussed in Section 3361.A.

2. If the nurse fails to make restitution within 14 days from the date of the letter of notification of the returned check, then the nurse's current license shall become lapsed and practice as a Registered Nurse is no longer legal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and R.S. 37:927.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 8:417 (August 1982),

amended by the Department of Health and Hospitals, Board of Nursing, LR 14:533 (August 1988), LR 22:981 (October 1996).

Barbara L. Morvant, M.N., R.N.
Executive Director

9606#020

RULE

Department of Health and Hospitals Board of Nursing and Board of Medical Examiners

Advanced Practice Registered Nurse Demonstration Projects (LAC 46:XLVII.4513)

The Board of Nursing (Board) and Board of Medical Examiners, pursuant to the authority vested in the Board by R.S. 37:918(K), and 37:1031-1035 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has adopted LAC 46:XLVII.4513.C., Limited Prescriptive and Distributing Authority for Advanced Practice Registered Nurses, to standardize the process and requirements for application of prescriptive authority as a nurse practitioner, certified nurse midwife, and clinical nurse specialist in Louisiana. The boards have amended these rules as set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4513. Authorized Practice

A. - B.8. ...

C. Limited Prescriptive and Distributing Authority. An advanced practice registered nurse (APRN) shall practice in a manner consistent with the definition of advanced practice set forth in R.S. 37:913(3)(b) and the provisions of R.S. 37:1031-1035.

1. The 1995 Louisiana legislature authorized the creation of the Committee on Prescriptive Authority for Advanced Practice Registered Nurses, under the joint jurisdiction of the Louisiana State Board of Nursing and the Louisiana State Board of Medical Examiners, to recommend rules and regulations governing the formulation of demonstration projects using APRNs to provide specified prescriptive services under physician direction, in certain under-served health care areas and certain areas of demonstrated health care needs in the state as determined by appropriate and scientific criteria, including but not limited to physician to general population ratios.

2. The application for an APRN to be granted limited prescriptive authority to prescribe legend drugs, assessment studies and therapeutic devices, and to distribute free drug

samples and other gratuitous medications supplied by drug manufacturers may be made as part of initial APRN licensure application with no additional fee or by separate application with the nonrefundable fee as set forth in LAC 46:XLVII.3361.

3. Definitions as used in this Part:

Act—Acts 1995, No. 629, R.S. 37:1031-1035.

Board—the Louisiana State Board of Nursing.

Contact Hour—a unit of measurement that describes 50 minutes of participation in an educational activity which meets the Louisiana State Board of Nursing continuing education criteria. Ten contact hours equal one continuing education unit (C.E.U.).

Collaborating Physician—the physician with whom the APRN has developed and signed guidelines for a limited prescribing practice.

Demonstration Projects—the pilot projects established by the Joint Administration Committee allowing designated APRNs to provide specified prescriptive services for the purpose of data collection and analysis.

Distribute—distribution or distributed means the issuing of free samples and other gratuitous medications supplied by drug manufacturers, as defined by protocol contained in a collaborative practice agreement.

Joint Administration Committee or Committee—the joint subcommittee comprising three members designated by the Board and three members designated by the Louisiana State Board of Medical Examiners constituted to prescribe the procedures for approval, modification, or denial of demonstration projects as contemplated by the Act.

Medical Device—any item, other than a drug, that is used directly by, on, or in the patient. Devices may include, but not be limited to: crutches, cervical collars, diaphragm, hospital bed, oxygen, and wheelchairs.

National Professional Accrediting Organization—the educational activity offered by a nursing, medical, or pharmacy association and approved by the Board of Nursing relative to pharmacology management.

Prescribe—to direct, order, or designate the preparation, use of or manner of using by spoken or written words.

Under Physician Direction—the limited prescriptive authority as approved by the Joint Administration Committee and demonstrated in the collaborative practice agreement as provided for in R.S. 37:913(9).

4. The applicant shall meet the following requirements:

a. holds a current, unencumbered, unrestricted and valid registered nurse license in Louisiana and there are no grounds for disciplinary proceedings as stated in R.S. 37:921;

b. holds a current, unencumbered, unrestricted and valid APRN license;

c. provides evidence of:

i. one year of active full-time practice in the clinical specialty for which the applicant was educationally prepared as an APRN immediately prior to applying for limited prescribing and distributing authority;

ii. a notarized application on a form provided by the Board;

iii. successful completion of a minimum of 36 contact hours of education in advanced pharmacotherapeutics obtained as a component of a formal educational program preparing registered nurses for advanced practice or continuing education programs, approved by the Board, within the four-year time period immediately prior to the date of application for prescriptive and distributing authority, at least 12 hours of which shall have been obtained within two years prior to application, which:

(a). are related to the applicant's advanced practice category and area of specialization;

(b). include knowledge of pharmacokinetics principles and their clinical application;

(c). include the use of pharmacological agents in the prevention of illness, restoration and maintenance of health.

iv. any deviation from 4.c.iii must be submitted to the Joint Administration Committee for review and approval.

v. a collaborative practice agreement with a licensed physician or physician group which shall include a plan of accountability between both parties to include, but not be limited to:

(a). clinical practice guidelines as required by R.S. 37:913(9)(b);

(b). availability of the collaborating physician; and

(c). patient care coverage during the absence of an APRN, physician, or both parties with documented review of the guidelines with the on-call physician.

5. Application Process for Selecting the Demonstration Projects

a. The Joint Administration Committee reviews and authorizes approval for the demonstration projects.

b. Eligible APRNs are defined as:

i. certified nurse midwives (CNMs);

ii. clinical nurse specialists (CNSs) in specialty areas of diabetes, psych/mental health, cardiovascular and oncology; and

iii. nurse practitioners (NPs).

c. Eligible sites are defined to include without limitation:

i. school-based centers;

ii. nursing homes and other geriatric settings;

iii. primary care outpatient facilities;

iv. rural health clinics;

v. federally qualified health centers (FQHC);

vi. charity hospital outpatient clinics;

vii. women's health clinics;

viii. university student health centers;

ix. other areas as identified with a demonstrated need.

d. Approval of demonstration sites will be authorized by the Joint Administration Committee in such a manner to insure balance in the type of setting, geographic location and reflect the ability of the committee to appropriately monitor the sites.

e. An APRN shall demonstrate compliance with LAC 46:XLVII.4513.C.2.

6. Limited Prescriptive Authority

a. An APRN with limited prescriptive authority approved by the Board and the Louisiana State Board of Medical Examiners may prescribe legend drugs, over the counter drugs, medical devices and appliances as indicated by protocol contained in the collaborative practice agreement.

b. A prescription for legend drugs may be written to be refilled three times or up to three months, whichever comes first.

c. An APRN who is authorized by the Joint Administration Committee to exercise limited prescriptive authority shall not prescribe or distribute any controlled substance as defined, enumerated or included in federal or state statutes or regulations, 21 CFR §1308.11-15., R.S. 40:964, or any substance which may hereafter be designated a controlled substance by amendment or supplementation of the cited regulations and statute, except as may be explicitly authorized by the Joint Administration Committee. An APRN who is so authorized shall not prescribe controlled substances of any class until and unless the APRN applies for and obtains a license from the Louisiana Division of Narcotics and Dangerous Drugs and registration with the U.S. Drug Enforcement Administration for the appropriate controlled substance schedules and files copies of such license and registration with the Board.

d. Each order for a prescription shall comply with the following criteria:

i. the name, office address, telephone number, "RN" designation and clinical specialty area of the APRN;

ii. the collaborating physician's name shall be pre-printed, stamped, or handwritten on the prescription form and shall be clearly distinguished;

iii. the date the prescription is written;

iv. the name and home address and telephone number of the patient;

v. the full brand name of the drug and directions for its use;

vi. each prescription written by an APRN pursuant to authority granted under these rules shall bear the legend: "DEMONSTRATION PROJECT (per R.S. 37:1031-1035)";

vii. an APRN with limited prescriptive authority shall retain a duplicate or copy of each prescription written and issued to patients;

viii. prescriptions written by an authorized APRN shall comply with all the applicable state and federal laws and be signed by the APRN with the abbreviation for the applicable category of advanced nursing practice and the identification number assigned by the Board.

e. Each year an APRN with limited prescriptive authority shall obtain six contact hours of continuing education in pharmacology or pharmacology management approved by a national professional accrediting organization. Documentation of completion of the above contact hours shall be submitted for license renewal.

f. APRN prescriptive authority shall be renewed as part of the APRN license.

g. The Board shall be responsible for maintaining a current up-to-date public list of APRNs who have limited authority to prescribe in the state. An updated list of APRNs with limited prescriptive authority shall be sent by the Board to the Louisiana State Board of Pharmacy on a monthly basis by APRN category and specialty.

h. The Board of Nursing shall supply whatever data is needed by the Office of Narcotics and Dangerous Drugs of the Department of Health and Hospitals.

7. Limited distribution of free drug samples and other gratuitous medications supplied by drug manufacturers:

a. Distribution of free drug samples and other gratuitous medications supplied by drug manufacturers, other than controlled substances, shall:

i. be consistent with, and not beyond the parameters of, the APRN scope of practice and collaborative practice agreement;

ii. be recorded in the patient record; and

iii. be in accordance with other state and federal statutes and regulations.

b. Free drug samples distributed by an APRN shall be in the manufacturers' original packaging and shall be labeled to show the name of the drug, strength in the original packaging along with directions for use. With the exception of medication samples as authorized by this rule, an APRN with limited prescriptive authority shall not accept or distribute any controlled substance, legend drug or other medication, except as authorized by R.S. 37:933.

8. An APRN granted limited prescriptive and distributing authority shall comply with all applicable laws and rules in prescribing, distributing and administering drugs, including compliance with labeling requirements R.S. Title 37:1195(B); 37:1701; 37:911 et seq., and 37:1261 et seq.

9. Limitation

a. The Joint Administration Committee shall review the application and all related material and shall approve, modify or deny the application.

b. An APRN's limited prescriptive and distributing authority is not delegable.

10. Exclusion. Nothing herein shall require a CRNA to have prescriptive authority to provide anesthesia care, including the administration of drugs or medicine necessary for anesthesia care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1031-1035.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, and Board of Nursing, LR 22:283 (April 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996).

Barbara Morvant, MN, RN
Executive Director, LSBN

Delmar Rorison, MD
Executive Director, LSBME

9610#065

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code—Mechanical Wastewater Treatment (Chapter XIII)

In accordance with R.S. 40:4, 40:5, and the provisions of Chapter XIII of the State Sanitary Code, the State Health Officer has amended the following listing entitled "Mechanical Wastewater Treatment Plants for Individual Homes—Acceptable Units":

Amend the listing to include additional manufacturer and associated plant model specified as follows:

Manufacturer	Plant Designation	Rated Capacity
McGrew Construction Company, Inc.	"Jetaire"	
9591 Wallace Lake Road	500	500 gpd
Shreveport, LA 71106	750	750 gpd
(318) 688-4737	1000	1000 gpd

The specified change is in compliance with the requirements set forth in Section 6.6 of Appendix A of Chapter XIII of the State Sanitary Code.

Bobby P. Jindal
Secretary

9610#050

RULE

Department of Insurance Commissioner of Insurance

Regulation 55—Life Insurance Illustrations

Under the authority of R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance has adopted the following regulation.

Regulation 55

Life Insurance Illustrations

Section 1. Purpose

The purpose of this regulation is to provide rules for life insurance policy illustrations that will protect consumers and foster consumer education. The regulation provides illustration formats, prescribes standards to be followed when illustrations are used, and specifies the disclosures that are required in connection with illustrations for policies not excluded herein. The goals of this regulation are to ensure that illustrations do not mislead purchasers of life insurance and to make illustrations more understandable. Insurers will, as far as possible, eliminate the use of footnotes and caveats and define terms used in the illustration in language that would be understood by a typical person within the segment of the public to which the illustration is directed.

Section 2. Authority

This regulation is promulgated by the Department of Insurance under the authority granted by Louisiana Revised Statutes (L.R.S.) Title 22, Section 3, and the Administrative Procedure Act, R.S. Title 49, Sections 950 et seq.

Section 3. Applicability and Scope

This regulation applies to all group and individual life insurance policies and certificates except:

- A. variable life insurance;
- B. individual and group annuity contracts;
- C. credit life insurance; or
- D. life insurance policies with no illustrated death benefits on any individual exceeding \$10,000.

Section 4. Definitions

For the purposes of this regulation:

A. *Actuarial Standards Board*—the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

B. *Contract Premium*—the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration.

C. *Currently Payable Scale*—a scale of non-guaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next 95 days.

D. *Department*—the Louisiana Department of Insurance.

E. *Disciplined Current Scale*—a scale of non-guaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer. Further guidance in determining the disciplined current scale as contained in standards established by the Actuarial Standards Board may be relied upon if the standards:

- (1) are consistent with all provisions of this regulation;
- (2) limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;
- (3) do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and
- (4) do not permit assumed expenses to be less than minimum assumed expenses.

F. *Generic Name*—a short title descriptive of the policy being illustrated such as "whole life," "term life" or "flexible premium adjustable life."

G. *Guaranteed Elements and Non-guaranteed Elements*—

(1) *Guaranteed Elements*—the premiums, benefits, values, credits or charges under a policy of life insurance that are guaranteed and determined at issue.

(2) *Non-guaranteed Elements*—the premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.

H. *Illustrated Scale*—a scale of non-guaranteed elements currently being illustrated that is not more favorable to the policy owner than the lesser of:

- (1) the disciplined current scale; or
- (2) the currently payable scale.

I. *Illustration*—a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a

period of years and that is one of the three types defined below:

(1) *Basic Illustration*—a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and non-guaranteed elements.

(2) *Supplemental Illustration*—an illustration furnished in addition to a basic illustration that meets the applicable requirements of this regulation, and that may be presented in a format differing from the basic illustration, but may only depict a scale of non-guaranteed elements that is permitted in a basic illustration.

(3) *In Force Illustration*—an illustration furnished at any time after the policy that it depicts has been in force for one year or more.

J. *Illustration Actuary*—an actuary meeting the requirements of Section 11 who certifies to illustrations based on the standard of practice promulgated by the Actuarial Standards Board.

K. *Lapse-supported Illustration*—an illustration of a policy form failing the test of self-supporting as defined in this regulation, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first five years and 100 percent policy persistency thereafter.

L. (1) *Minimum Assumed Expenses*—the minimum expenses that may be used in the calculation of the disciplined current scale for a policy form. The insurer may choose to designate each year the method of determining assumed expenses for all policy forms from the following:

- (a) fully allocated expenses;
- (b) marginal expenses; and

(c) a generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the Department.

(2) Marginal expenses may be used only if greater than a generally recognized expense table. If no generally recognized expense table is approved, fully allocated expenses must be used.

M. *Non-term Group Life*—a group policy or individual policies of life insurance issued to members of an employer group or other permitted group where:

- (1) every plan of coverage was selected by the employer or other group representative;
- (2) some portion of the premium is paid by the group or through payroll deduction; and
- (3) group underwriting or simplified underwriting is used.

N. *Policy Owner*—the owner named in the policy or the certificate holder in the case of a group policy.

O. *Premium Outlay*—the amount of premium assumed to be paid by the policy owner or other premium payer out-of-pocket.

P. *Self-supporting Illustration*—an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the 15 policy anniversary or the 20 policy anniversary for second-or-later-to-die policies (or upon policy expiration if sooner), the accumulated value of all policy cash flows equals or exceeds

the total policy owner value available. For this purpose, policy owner value will include cash surrender values and any other illustrated benefit amounts available at the policy owner's election.

Section 5. Policies to Be Illustrated

A. Each insurer marketing policies to which this regulation is applicable shall notify the Department whether a policy form is to be marketed with or without an illustration. For all policy forms being actively marketed on the effective date of this regulation, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after the effective date of this regulation, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the Department.

B. If the insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration for any policy using that form prior to the first policy anniversary is prohibited.

C. If a policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this regulation is required, except that a basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals. The illustration furnished an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

D. Potential enrollees of non-term group life subject to this regulation shall be furnished a quotation with the enrollment materials. The quotation shall show potential policy values for sample ages and policy years on a guaranteed and non-guaranteed basis appropriate to the group and the coverage. This quotation shall not be considered an illustration for purposes of this regulation, but all information provided shall be consistent with the illustrated scale. A basic illustration shall be provided at delivery of the certificate to enrollees for non-term group life who enroll for more than the minimum premium necessary to provide pure death benefit protection. In addition, the insurer shall make a basic illustration available to any non-term group life enrollee who requests it.

Section 6. General Rules and Prohibitions

A. An illustration used in the sale of a life insurance policy shall satisfy the applicable requirements of this regulation, be clearly labeled "life insurance illustration" and contain the following basic information:

- (1) name of insurer;
- (2) name and business address of producer or insurer's authorized representative, if any;
- (3) name, age and sex of proposed insured, except where a composite illustration is permitted under this regulation;
- (4) underwriting or rating classification upon which the illustration is based;
- (5) generic name of policy, the company product name, if different, and form number;
- (6) initial death benefit; and

(7) dividend option election or application of non-guaranteed elements, if applicable.

B. When using an illustration in the sale of a life insurance policy, an insurer or its producers or other authorized representatives shall not:

(1) represent the policy as anything other than a life insurance policy;

(2) use or describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;

(3) state or imply that the payment or amount of non-guaranteed elements is guaranteed;

(4) use an illustration that does not comply with the requirements of this regulation;

(5) use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated;

(6) provide an applicant with an incomplete illustration;

(7) represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;

(8) use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan for using non-guaranteed elements to pay a portion of future premiums;

(9) except for policies that can never develop nonforfeiture values, use an illustration that is "lapse-supported"; or

(10) use an illustration that is not "self-supporting."

C. If an interest rate used to determine the illustrated non-guaranteed elements is shown, it shall not be greater than the earned interest rate underlying the disciplined current scale.

Section 7. Standards for Basic Illustrations

A. Format. A basic illustration shall conform with the following requirements:

(1) The illustration shall be labeled with the date on which it was prepared.

(2) Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration (e.g., the fourth page of a seven-page illustration shall be labeled "page 4 of 7 pages").

(3) The assumed dates of payment receipt and benefit pay-out within a policy year shall be clearly identified.

(4) If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force.

(5) The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable. For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay.

(6) Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.

(7) If the illustration shows any non-guaranteed

elements, they cannot be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration. These elements shall be clearly labeled non-guaranteed.

(8) The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non-guaranteed elements (e.g., "see page one for guaranteed elements.")

(9) The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown in close proximity to the corresponding value available upon surrender.

(10) The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans and policy loan interest, as applicable.

(11) Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.

(12) Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that:

(a) the benefits and values are not guaranteed;

(b) the assumptions on which they are based are subject to change by the insurer; and

(c) actual results may be more or less favorable.

(13) If the illustration shows that the premium payer may have the option to allow policy charges to be paid using non-guaranteed values, the illustration must clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the contract premium. If a contract premium is due, the premium outlay display shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.

(14) If the applicant plans to use dividends or policy values, guaranteed or non-guaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

B. Narrative Summary. A basic illustration shall include the following:

(1) a brief description of the policy being illustrated, including a statement that it is a life insurance policy;

(2) a brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code;

(3) a brief description of any policy features, riders or options, guaranteed or non-guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;

(4) identification and a brief definition of column headings and key terms used in the illustration; and

(5) a statement containing in substance the following:

"This illustration assumes that the currently illustrated nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

C. Numeric Summary

(1) Following the narrative summary, a basic illustration shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract premium. This summary shall be shown for at least policy years five, ten and twenty and at age 70, if applicable, on the three bases shown below. For multiple life policies the summary shall show policy years five, ten, twenty and thirty.

(a) policy guarantees;

(b) insurer's illustrated scale;

(c) insurer's illustrated scale used but with the non-guaranteed elements reduced as follows:

(i) dividends at 50 percent of the dividends contained in the illustrated scale used;

(ii) non-guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and

(iii) all non-guaranteed charges, including but not limited to, term insurance charges, mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

(2) In addition, if coverage would cease prior to policy maturity or age 100, the year in which coverage ceases shall be identified for each of the three bases.

D. Statements. Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this regulation.

(1) A statement to be signed and dated by the applicant or policy owner reading as follows:

"I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The agent has told me they are not guaranteed."

(2) A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows:

"I certify that this illustration has been presented to the applicant and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

E. Tabular Detail

(1) A basic illustration shall include the following for at least each policy year from one to ten and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and except for term insurance beyond the 20th year, for any year in which the premium outlay and contract premium, if applicable, is to change:

(a) the premium outlay and mode the applicant plans to pay and the contract premium, as applicable;

(b) the corresponding guaranteed death benefit, as provided in the policy; and

(c) the corresponding guaranteed value available upon surrender, as provided in the policy.

(2) For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.

(3) Non-guaranteed elements may be shown if described in the contract. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any non-guaranteed elements are shown they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a non-guaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

Section 8. Standards for Supplemental Illustrations

A. A supplemental illustration may be provided so long as:

(1) it is appended to, accompanied by or preceded by a basic illustration that complies with this regulation;

(2) the non-guaranteed elements shown are not more favorable to the policy owner than the corresponding elements based on the scale used in the basic illustration;

(3) it contains the same statement required of a basic illustration that non-guaranteed elements are not guaranteed; and

(4) for a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration. For policies that do not require a contract premium, the premium outlay underlying the supplemental illustration shall be equal to the premium outlay shown in the basic illustration.

B. The supplemental illustration shall include a notice referring to the basic illustration for guaranteed elements and other important information.

Section 9. Delivery of Illustrations and Record Retention

A. (1) If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this regulation, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant.

(2) If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent with the policy. The revised illustration shall conform to the requirements of this regulation, shall be labeled "Revised Illustration" and shall be signed and dated by the applicant or policy owner and producer or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

B. (1) If no illustration is used by an insurance producer or other authorized representative in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration

conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application.

(2) If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

C. If the basic illustration or revised illustration is sent to the applicant or policy owner by mail from the insurer, it shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer's obligation under this subsection shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

D. A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three years after the policy is no longer in force. A copy need not be retained if no policy is issued.

Section 10. Annual Report; Notice to Policy Owners

A. In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain at least the following information:

(1) For universal life policies, the report shall include the following:

(a) the beginning and end date of the current report period;

(b) the policy value at the end of the previous report period and at the end of the current report period;

(c) the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders);

(d) the current death benefit at the end of the current report period on each life covered by the policy;

(e) the net cash surrender value of the policy as of the end of the current report period;

(f) the amount of outstanding loans, if any, as of the end of the current report period; and

(g) for fixed premium policies:

If, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report; or

(h) for flexible premium policies:

If, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

(2) For all other policies, where applicable:

(a) current death benefit;

(b) annual contract premium;

(c) current cash surrender value;

(d) current dividend;

(e) application of current dividend; and

(f) amount of outstanding loan.

(3) Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer."

B. If the annual report does not include an in force illustration, it shall contain the following notice displayed prominently: "Important Policy Owner Notice: You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling [insurer's phone number], writing to [insurer's name] at [insurer's address] or contacting your agent. If you do not receive a current illustration of your policy within 30 days from your request, you should contact your state insurance department." The insurer may vary the sequential order of the methods for obtaining an in force illustration.

C. Upon the request of the policy owner, the insurer shall furnish an in force illustration of current and future benefits and values based on the insurer's present illustrated scale. This illustration shall comply with the requirements of Sections 6.A, 6.B, 7.A and 7.E. No signature or other acknowledgment of receipt of this illustration shall be required.

D. If an adverse change in non-guaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a notice of that fact and the nature of the change prominently displayed.

Section 11. Annual Certifications

A. The board of directors of each insurer shall appoint one or more illustration actuaries.

B. The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the Actuarial Standard of Practice for Compliance with the NAIC Model Regulation on Life Insurance Illustrations promulgated by the Actuarial Standards Board, and that the illustrated scales used in insurer-authorized illustrations meet the requirements of this regulation.

C. The illustration actuary shall:

(1) be a member in good standing of the American Academy of Actuaries;

(2) be familiar with the standard of practice regarding life insurance policy illustrations;

(3) not have been found by the Department, following appropriate notice and hearing, to have:

(a) violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as an illustration actuary;

(b) been found guilty of fraudulent or dishonest practices;

(c) demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or

(d) resigned or been removed as an illustration actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;

(4) promptly notify the Department of any action taken by a department of another state similar to that under Paragraph (3) above;

(5) disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in force policies, this must be disclosed in the annual certification. If nonguaranteed elements illustrated for both new and in force policies are not consistent with the nonguaranteed elements actually being paid, charged or credited to the same or similar forms, this must be disclosed in the annual certification; and

(6) disclose in the annual certification the method used to allocate overhead expenses for all illustrations:

(a) fully allocated expenses;

(b) marginal expenses; or

(c) a generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the Department.

D. (1) The illustration actuary shall file a certification with the Board and with the Department:

(a) annually for all policy forms for which illustrations are used; and

(b) before a new policy form is illustrated.

(2) If an error in a previous certification is discovered, the illustration actuary shall notify the Board of Directors of the insurer and the Department promptly.

E. If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the Board of Directors of the insurer and the Department promptly of his or her inability to certify.

F. A responsible officer of the insurer, other than the illustration actuary, shall certify annually:

(1) that the illustration formats meet the requirements of this regulation and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary; and

(2) that the company has provided its agents with information about the expense allocation method used by the company in its illustrations and disclosed as required in Subsection C(6) of this Section.

G. The annual certifications shall be provided to the Department each year by a date determined by the insurer.

H. If an insurer changes the illustration actuary responsible for all or a portion of the company's policy forms, the insurer

shall notify the Department of that fact promptly and disclose the reason for the change.

Section 12. Severability

If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the regulation and its application to other persons or circumstances shall not be affected.

Section 13. Effective Date

This regulation shall become effective July 1, 1997 and shall apply to policies sold on or after the effective date.

James H. "Jim" Brown
Commissioner

9610#049

RULE

Department of Insurance Commissioner of Insurance

Regulation 58—Viatical Settlements

The Department of Insurance has amended the following regulation:

Regulation 58 Viatical Settlements

Section 1. Purposes

The purpose of this regulation is to provide for the implementation of licensure of viatical settlement providers, brokers or any person soliciting a viatical settlement contract and to provide for related matters.

Section 2. Authority

This regulation is promulgated by the Department of Insurance under the authority granted by Revised Statute (R.S.) Title 22, Sections 3 and 210 and the Administrative Procedure Act, R.S. Title 49, Section 950 et seq.

Section 3. Applicability and Scope

These regulations shall apply to any person soliciting a viatical settlement contract.

Section 4. Definitions

For purposes of this regulation:

A. *Person*—any natural or artificial entity including but not limited to individuals, partnerships, associations, trusts, or corporations.

B. *Viatical Settlement Broker*—a person who, for themselves or for another, offers or advertises the availability of viatical settlements, introduces viators to viatical settlement providers, or offers or attempts to negotiate viatical settlements between a viator and one or more viatical settlement providers for a fee, commission, or other valuable consideration. *Viatical settlement broker* does not include an attorney, accountant, or financial planner retained to represent the viator whose compensation is not paid by the viatical settlement provider.

C. *Viatical Settlement Contract*—a written agreement entered into between a viatical settlement provider and a viator in this state. The agreement shall establish the terms

under which the viatical settlement provider will pay compensation or anything of value in return for the policyholder's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider.

D. *Viatical Settlement Provider*—a person who enters into a viatical settlement contract with a viator owning a life insurance policy or a viator who owns or is covered under a group policy insuring the life of a person who has a catastrophic or life-threatening illness or condition. *Viatical settlement provider* shall not include:

1. any bank, savings bank, savings and loan association, credit union, or other licensed lending institution which takes an assignment of a life insurance policy as collateral for a loan;

2. the issuer of a life insurance policy providing accelerated benefits under R.S. 22:644 and Regulation 44 promulgated by the Department of Insurance;

3. any natural person who enters into only one viatical contract in a calendar year.

E. *Viator*—the owner of a life insurance policy insuring the life of a person with a catastrophic or life-threatening illness or condition or the certificate holder who enters into an agreement under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider.

Section 5. License Requirements for Viatical Settlement Providers

A. A viatical settlement provider shall not enter into or solicit a viatical settlement contract without first obtaining a license from the Department of Insurance.

B. The application shall be on a form required by the Department of Insurance and accompanied by a fee of \$1,000.

C. All members, officers, and designated employees of a partnership, corporation or other entity issued a license may act as a viatical settlement provider under the contract.

D. The license may be renewed yearly by payment of a fee of \$500 on or before May 1 of each year. Failure to pay the fee within the terms prescribed by the Department of Insurance shall result in the automatic cancellation of the license.

E. The applicant shall provide such information as required on forms prescribed by the Department of Insurance.

F. A viatical settlement provider may operate pursuant to the provisions in this law pending licensure by the Department of Insurance, but in no case shall a provider be allowed to operate without a license following June 1, 1996.

G. The minimum capital requirement shall be \$500,000, which may be in the form of a bond or cash or cash equivalents.

H. The Department of Insurance shall have the right to suspend, revoke or refuse to renew the license of any viatical settlement provider as provided by law.

I. The Department of Insurance shall not deny a license application or suspend, revoke, or refuse to renew the license

application or suspend, revoke, or refuse to renew the license of a viatical settlement provider without first conducting a hearing in accordance with the Administrative Procedure Act.

Section 6. License Requirements for Viatical Settlement Brokers

A. A viatical settlement broker shall not enter into or solicit a viatical settlement contract without first obtaining a license from the Department of Insurance.

B. The application shall be on a form required by the Department of Insurance and accompanied by a fee of \$50.

C. The license may be renewed yearly by payment of a fee of \$50. Failure to pay the renewal fee within the time prescribed shall result in automatic cancellation of the license.

D. Viatical brokers operating in this state shall be licensed by the Department of Insurance as a Louisiana life insurance agent, and appointed by a licensed viatical provider.

E. The applicant shall provide such information as required on forms prescribed by the Department of Insurance.

F. A viatical settlement broker may operate pursuant to the provisions in Part V-B of Chapter 1 of Title 22 of the R.S. of 1950 pending licensure by the Department of Insurance, but in no case shall a broker be allowed to operate without a license following June 1, 1996.

G. The Department of Insurance shall have the right to suspend, revoke or refuse to renew the license of any viatical settlement broker as provided by law.

H. The Department of Insurance shall not deny a license application or suspend, revoke or refuse to renew the license of a viatical settlement provider without first conducting a hearing in accordance with the Administrative Procedure Act.

Section 7. Approval of Viatical Settlement Contract

As provided in R.S. 22:205, the Department of Insurance must approve a viatical settlement contract before it is used in this state. If the viatical settlement contract is disapproved, the Department of Insurance shall notify in writing the viatical settlement provider, specifying the reasons for disapproval of the contract form; and it shall thereafter be unlawful for such viatical settlement provider to issue such form in this state. In such notice, the Department of Insurance shall state that a hearing will be granted within 60 days upon written request by the provider.

Section 8. Reporting Requirements

On March 1 of each calendar year, each licensed provider shall file with the Department of Insurance an annual statement in addition to the following information for the previous calendar year:

- A. for each policy viaticated:
 1. date viatical settlement contract entered into;
 2. life expectancy of viator at time of contract;
 3. names of insurance company and face amount of policy;
 4. amount paid by the viatical settlement provider to viaticate the policy; and
 5. if the viator has died:
 - (a). date of death; and
 - (b). total insurance premiums paid by viatical settlement provider to maintain the policy in force;
- B. breakdown of applications received, accepted and rejected, by disease category;

- C. breakdown of policies viaticated by issuer and policy type;
- D. number of secondary market vs. primary market transactions;
- E. portfolio size; and
- F. source and amount of outside financing.

Section 9. Standards for Evaluation of Reasonable Payments

In order to assure that viators receive a reasonable return for viaticating an insurance policy, the following shall be minimum amounts:

Less than 6 months	(80 percent)
At least 6 but less than 12 months	(70 percent)
At least 12 but less than 18 months	(65 percent)
At least 18 but less than 24 months	(60 percent)

The percentage may be reduced by 5 percent for viaticating a policy written by an insurer rated less than the highest four categories by A.M. Best, or a comparable rating by another rating agency.

The commissioner shall have the discretion to permit a reduction to the minimum percentages set forth in this Section, by up to 10 percent, upon a determination by the Department of Insurance that economic conditions have changed to such an extent that such variance is warranted. The procedure for obtaining such variance is as follows:

The percentages will be reviewed annually by the commissioner and a bulletin will be issued not later than November 1 of the current year establishing the new percentages to be in effect for the following calendar year commencing January 1 and continuing through December 31. The commissioner will issue a bulletin stating the details of the revised percentage.

The commissioner shall have the discretion to permit variance from the minimum percentages set forth in this Section upon a determination by the Department of Insurance that a viator's insurance policy is within the contestability period permitted by R.S. 22:172.

The commissioner may permit variance from the minimum percentages set forth if the expected premium to be paid by the viatical settlement provider exceeds 5 percent of the face value of the policy.

Section 10. General Rules

A. With respect to policies containing a provision for double or additional indemnity for accidental death or any other additional death benefits, the additional payment shall remain payable to the beneficiary last named by the viator prior to entering into the viatical settlement contract, or to such other beneficiary, other than the viatical settlement provider, as the viator may thereafter designate, or in the absence of a designation, to the estate of the viator, unless otherwise mutually agreed to in writing by the viator and viatical settlement provider.

B. Payments of the proceeds pursuant to a viatical settlement shall be made in a lump sum. Retention of a portion of the proceeds pursuant to a viatical settlement by a provider or escrow agent is not permissible.

C. A viatical settlement provider or broker shall not discriminate in the making of viatical settlements on the basis of race, age, sex, national origin, creed, religion, occupation,

marital or family status or sexual orientation, or discriminate between viators with dependents and without.

D. A viatical settlement provider or broker shall not pay or offer to pay any finder's fee, commission or other compensation to any viator's physician, attorney, accountant, or other person providing medical, legal or financial planning services to the viator, or to any other person acting as an agent of the viator with respect to the viatical settlement.

E. Contacts for the purpose of determining the health status of the viator by the viatical provider or broker after the viatical settlement has occurred should be limited to once every three months for viators with a life expectancy of more than one year, and to no more than one per month for viators with a life expectancy of one year or less. The provider or broker shall explain the procedure for these contacts at the time the viatical settlement contract is entered into.

F. Viatical settlement providers and brokers shall not solicit investors who could influence the treatment of the illness of the viators whose coverage would be the subject of the investment.

G. Advertising Standards

1. Advertising should be truthful and not misleading by fact or implication.

2. If the advertiser emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the viator.

3. If the advertising emphasizes the dollar amounts available to viators, the advertising shall disclose the average purchase price as a percent of face value obtained by viators contracting with the advertiser during the past six months.

James H. "Jim" Brown
Commissioner of Insurance

9610#069

RULE

Department of Labor Office of Workers' Compensation

Compliance Penalty (LAC 40:I.109)

Under the authority of the Workers' Compensation Act, particularly R.S. 23:1021 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Workers' Compensation hereby amends the Office of Workers' Compensation Rules, LAC 40:I.109 of Chapter 1, Compliance Penalty.

Amending this rule deleted LAC 40:I.109.B in Chapter 1, Compliance Penalty, pertaining to the authority of the director to hold an investigatory hearing in order to determine whether or not a penalty may be imposed. The amendment, technical in nature, in no way changed the way the current hearing and appeals process operates.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Chapter 1. General Provisions

§109. Compliance Penalty

- A. ...
- B. Repealed.
- C. ...

(Editor's Note: The existing text in Subsection C will move to Subsection B.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291(B)(13).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:359 (April 1991), amended by the Department of Labor, Office of Workers' Compensation, LR 22:221 (March 1996), LR 22:992 (October 1996).

Ronald L. Menville
Director

9610#053

RULE

Department of Labor Office of Workers' Compensation

Forms (LAC 40:I.105)

Under the authority of the Workers' Compensation Act, particularly R.S. 23:1021 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Workers' Compensation hereby amended the Office of Workers' Compensation Rules, LAC 40:I.105.

Amending these rules requires employers to complete the required Form LDOL-WC-1017A, Employers Report of Occupational Injury and Illness Quarterly Summary. The amendment will also list those employers which may be exempt from the requirements listed in the amendment.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Chapter 1. General Provisions

§105. Forms

A. The following forms are prescribed for use as required by the Workers' Compensation Act and these rules:

- 1. - 4. ...

5.a. Form LDOL-WC-1017A, Employer's Report of Occupational Injury and Illness Quarterly Summary, shall be filed with the Office of Workers' Compensation by the last day of the first month of the succeeding quarter by all employers with 11 or more employees at any one time in the prior calendar year.

b. The following employers are exempt from the requirements of §105.A.5.a (also identified by their Standard Industrial Classification Codes [SIC Codes]):

- i. Agricultural Production (SIC 01)
- ii. Agricultural Services (SIC 07)
- iii. Automotive dealers and gasoline service stations (SIC 55)
- iv. Apparel and accessory stores (SIC 56)
- v. Furniture, home furnishings, and equipment stores (SIC 57)
- vi. Eating and drinking places (SIC 58)
- vii. Miscellaneous retail (SIC 59)
- viii. Banking (SIC 60)
- ix. Credit agencies other than banks (SIC 61)
- x. Security, commodity brokers, and services (SIC 62)
- xi. Insurance (SIC 63)
- xii. Insurance agents, brokers, and services (SIC 64)
- xiii. Real estate (SIC 65)
- xiv. Holding and other investment offices (SIC 67)
- xv. Personal services (SIC 72)
- xvi. Business services (SIC 73)
- xvii. Motion pictures (SIC 78)
- xviii. Legal services (SIC 81)
- xix. Educational services (SIC 82)
- xx. Social services (SIC 83)
- xxi. Museums, botanical, and zoological gardens (SIC 84)
- xxii. Membership organizations (SIC 86)
- xxiii. Engineering, Accounting, Research and Management (SIC 87)
- xxiv. Private households (SIC 88)
- xxv. Miscellaneous services (SIC 89)
- xxvi. Offices and Clinics of Doctors of Medicine (SIC 8011)
- xxvii. Offices and Clinics of Dentists (SIC 8021)
- xxviii. Offices and Clinics of Doctors of Osteopathy (SIC 8031)
- xxix. Offices and Clinics of Chiropractors (SIC 8041)
- xxx. Offices and Clinics of Optometrists (SIC 8042)
- xxxi. Offices and Clinics of Podiatrists (SIC 8043)
- xxxii. Offices and Clinics of Health Practitioners, Not Elsewhere Classified (SIC 8049)
- xxxiii. Medical Laboratories (SIC 8071)
- xxxiv. Dental Laboratories (SIC 8072)
- xxxv. Home Health Care Services (SIC 8082)
- xxxvi. Kidney Dialysis Centers (SIC 8092)
- xxxvii. Specialty Outpatient Facilities, Not Elsewhere Classified (SIC 8093)
- xxxviii. Health and Allied Services, Not Elsewhere Classified (SIC 8099)

c. Failure to file this form as required may be penalized pursuant to LAC 40:I.109.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1021.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 11:776 (August 1985), repealed and repromulgated by the Department of Employment and Training, LR 17:358 (April 1991), amended by the Department of Labor, Office of Workers' Compensation, LR 22:221 (March 1996), LR 22:992 (October 1996).

Ronald L. Menville
Director

9610#054

RULE

Department of Labor Office of Workers' Compensation

Fraud Penalty; Hearing; Appeal (LAC 40:I.1905)

Under the authority of the Workers' Compensation Act, particularly R.S. 23:1021 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Workers' Compensation hereby amends the Office of Workers' Compensation Rules, LAC 40:I.Chapter 19.

Amending this rule deleted LAC 40:I.1905.B in Chapter 19, Fraud, pertaining to the authority of the director to hold an investigatory hearing in order to determine whether or not a penalty may be imposed. The amendment, technical in nature, in no way changed the way the current hearing and appeals process operates.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Chapter 19. Fraud

§1905. Penalty; Hearing; Appeal

- A. ...
- B. Repealed.
- C. - C.1. ...

(Editor's Note: The existing text in Subsection C will move to Subsection B.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1208 and 23:1291(1)(5).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:359 (April 1991), amended by the Department of Labor, Office of Workers' Compensation, LR 22:223 (March 1996), LR 22:993 (October 1996).

Ronald L. Menville
Director

9610#052

RULE

Department of Social Services Office of Rehabilitation Services

Policy Manual—Confidentiality and Order of Selection
(LAC 67:VII.101)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) has revised its *Policy Manual*, Sections: Order of Selection Policy and Confidentiality Policy.

The rule governing Louisiana Rehabilitation Services' order of selection ensures that individuals with the most severe disabilities receive priority for cost rehabilitation services.

The rule governing Louisiana Rehabilitation Services' confidentiality policy provides for the collection and release of personal information.

The LRS policy manuals are referenced in LAC 67:VII.101 as follows.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§101. Vocational Rehabilitation Policy Manual

A. LRS Vocational Rehabilitation Policy Manual provides opportunities for employment outcomes and independence to individuals with disabilities through vocational and other rehabilitation services. Its policy manual guides its functions and governs its actions within the parameters of federal law.

B. Copies of the policy manual can be viewed at Louisiana Rehabilitation Services State Office, 8225 Florida Boulevard, Baton Rouge, LA and at each of its nine Louisiana Rehabilitation Services Regional Offices (statewide), or at the Office of the State Register, 1051 North Third Street Suite 512, Baton Rouge, LA 70802.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 21:189 (February 1995), LR 21:191 (February 1995), amended LR 21:473 (May 1995), amended LR 21:837 (August 1995), LR 22:993 (October 1996).

The entire Vocational Rehabilitation Policy Manual can be viewed at Louisiana Rehabilitation Services State Office, 8225 Florida Boulevard, Baton Rouge, LA 70806 and at the nine Louisiana Rehabilitation Service Regional Offices (statewide) or at the Office of the State Register, 1051 North Third Street, Suite 512, Baton Rouge, LA 70802.

Madlyn B. Bagneris
Secretary

9610#066

RULE

Department of Treasury Bond Commission

Reimbursement Contract (LAC 71:III)

The Omnibus Bond Authorization Act, in order to facilitate the funding of capital improvements by certain governmental units and political subdivisions of the state, has authorized the issuance of general obligation bonds contingent upon the applicable management board, governing body or state agency entering into and executing a reimbursement contract with the State Bond Commission pertaining to the reimbursement payments and reimbursement reserve account payments for such projects.

The execution of such reimbursement contracts does not in any way affect, restrict or limit the pledge of the full faith and credit of the state of Louisiana to the payment of the general obligation bonds issued pursuant to the authority of such act.

The state of Louisiana is obligated to the general obligation bondholder regardless of the existence of any reimbursement contracts between the state and any of its governmental units

or political subdivisions, and likewise the governmental unit or political subdivision is obligated to make payment to the state of the money loaned under the reimbursement contracts, regardless of the current status of any general obligation bonds.

In some instances the prepayment of such reimbursement contracts can result in savings and/or other benefits to such governmental units and political subdivisions, and to that end a clear and orderly process for entering into and prepaying reimbursement contracts will benefit both the state and the governmental units and political subdivisions utilizing such tax-exempt funds by insuring that funds are handled in such a manner as to maintain the tax-exempt status of any bonds issued in connection with the transaction. Therefore, the following is the policy of the Department of the Treasury, office of the State Bond Commission, to be considered relative to reimbursement contracts.

Title 71

TREASURY

Part III. Bond Commission

1. Any governmental entity or political subdivision borrowing money from the proceeds of a state general obligation bond issue shall, at the time the money is borrowed from the state, enter into a reimbursement contract as provided in the Omnibus Bond Authorization Act pursuant to which the bonds were issued, which reimbursement contract shall provide for the terms and conditions under which these funds shall be repaid by the governmental entity or political subdivision. At the time a reimbursement contract is executed for the underlying tax-exempt obligation, an IRS Form 8038G or Form 8038GC shall be prepared by the Attorney General and shall be executed by the recipient of the bond proceeds.

2. Any governmental unit or political subdivision which has entered into a reimbursement contract shall be allowed to prepay the reimbursement contract:

a. if the prepayment would result in a minimum net present value savings in accordance with Schedule A hereto; or

b. if economic and administrative benefits accrue to the governmental unit or political subdivision as a result of the prepayment as may be reasonably determined by the staff of the State Bond Commission; or

c. a prepayment characterized as a current refunding shall be permitted in any case.

3. A governmental unit or political subdivision wishing to prepay a reimbursement contract shall make such request in writing to the office of the State Bond Commission. The staff shall determine the amount due for prepayment, including principal and interest due less the amount of any reimbursement reserves. No redemption premium shall be charged to prepay a reimbursement contract unless such premium is needed to pay a corresponding redemption premium to the state's bondholders within 90 days of such prepayment.

4. The staff of the office of the State Bond Commission shall then send written notification to the chief financial officer or other appropriate official for the entity requesting

prepayment setting forth the amount owed for prepayment. Copies of the notice shall be forwarded to the fiscal officer of the Department of the Treasury, the attorney general, and the Division of Administration. The chief financial officer or other official to whom the notice is sent shall verify in writing that they concur with the figures submitted in the written notice.

5. If application is made to the State Bond Commission for the issuance of refunding bonds, the proceeds of which are to be used for the prepayment of a reimbursement contract, a copy of the notification submitted pursuant to Section 4 above must be attached to the application. Upon receipt of such an application, the state debt analyst shall be immediately notified. The total amount due in order to prepay the reimbursement contract must be verified by the state debt analyst and made a part of the file. Once the amounts have been verified the usual procedure for approval of bond applications shall be followed.

6. After the recipient's refunding bonds have been sold, the applicant must contact the office of the State Bond Commission to arrange payment of the reimbursement contract. Prepayments must be accompanied by a certificate of the chief financial officer or bond counsel for the prepaying entity attesting to the correct arbitrage yield on the refunding bonds.

7. Upon delivery of the prepayment check, the state debt analyst shall fill out the parish and local government Reimbursement Contract Prepayment Receipt Log showing receipt of the money, where it is to be deposited and whether it is to be yield restricted to the rate of arbitrage yield certified to by the bond counsel for the prepaying entity (in the case of prepayments funded by a tax-exempt bond issue) or to the rate of the state bond issue (in the case of prepayments not funded with the proceeds of a tax-exempt bond issue, such as those funded from tax revenues or user fees). The proceeds received as prepayment of reimbursement contracts shall be deposited by the fiscal office, Department of the Treasury, into the state treasury in accordance with the designation shown on the form and shall be placed in the Capital Outlay Escrow Fund. Such funds shall be yield restricted as indicated above or yield reduction payments shall be made as necessary until such funds are expended in accordance with law. All interest earnings on such funds shall remain in the Capital Outlay Escrow Fund and shall be restricted to the same yield as the original prepayment deposit or yield reduction payments shall be made as necessary until all such earnings are expended along with the principal prepayment amount.

8. Upon deposit of the prepayment proceeds, the Fiscal Control Section of the Department of the Treasury shall notify the Division of Administration that funds are now available to be used in accordance with the Capital Outlay Bill for the current fiscal year. Such notification shall include a copy of the Reimbursement Prepayment Receipt Form.

9. The Division of Administration shall notify the fiscal control section of the Department of Treasury when these funds have been allocated to a particular project. Such notification shall include the name of the project and the amount allocated.

THE APPROPRIATE THRESHOLD OF SAVINGS THAT SHOULD
EXIST FOR AN ECONOMIC ADVANCE REFUNDING

Months To Call	Minimum Present Value Savings To Refund
0 - 12	Net Present Value Savings > 0
13 - 24	Net Present Value Savings > 1.5%
25 - 48	Net Present Value Savings > 3.0%
> 48	Net Present Value Savings > 5.0%

CHECKLIST FOR COMPLIANCE WITH POLICY
AND PROCEDURES FOR PREPAYMENT OF
REIMBURSEMENT CONTRACTS

1. Name of entity _____
2. Identifying information on reimbursement contract
Name _____
Series _____ Issue Date _____
Amount of Original Issue _____
Principal and Interest Payment Dates: P _____ I _____
3. IRS Form 8038G or 8038GC executed? Yes _____ No _____
4. Net present value savings _____
5. Date request for prepayment approval received _____
6. Forwarded to State Debt Analyst II(date) _____
7. Cost of prepayment:
a. Principal \$ _____
b. Interest \$ _____
c. Redemption premium, if any \$ _____
d. Less Reserves \$ _____
e. Total amount due for prepayment \$ _____
8. Request for verification forwarded to chief financial officer _____
(Copies to Division of Administration; Attorney General; fiscal control section)
9. Verification received from chief financial officer _____
10. Prepayment received on (date) _____
Arbitrage yield certificate Yes _____ No _____
11. Reimbursement Prepayment Receipt Form completed _____
12. Funds deposited into Capital Outlay Escrow Account on _____
13. Yield restricted to rate of _____
14. Division of Administration notified of deposit on _____

CHECKLIST FOR BOND APPLICATIONS WHEN
BOND PROCEEDS ARE TO BE USED FOR
PREPAYMENT OF REIMBURSEMENT CONTRACTS

1. Name of entity _____
2. Identifying information on reimbursement contract to be prepaid with
bond proceeds
Name _____
Series _____ Issue Date _____
Amount of Original Issue _____
Principal and Interest Payment Dates: P _____ I _____
3. State Debt Analyst notified of application (date) _____
4. Verification of prepayment amount received from SDA (date) _____

NOTIFICATION OF AMOUNT DUE FOR
PREPAYMENT OF REIMBURSEMENT CONTRACT

YOU ARE HEREBY NOTIFIED THAT THE OFFICE OF THE STATE
BOND COMMISSION HAS RECEIVED YOUR REQUEST FOR
PREPAYMENT OF THE FOLLOWING REIMBURSEMENT CONTRACT:

1. Name of entity _____
2. Identifying information on reimbursement contract to be prepaid with
bond proceeds

Name _____
Series _____ Issue Date _____
Amount of Original Issue _____
Principal and Interest Payment Dates: P _____ I _____

A REVIEW OF OUR RECORDS INDICATES THAT THE
FOLLOWING AMOUNTS ARE DUE IN ORDER TO PREPAY THE
REIMBURSEMENT CONTRACT ON OR BEFORE THE FOLLOWING
DATE _____

Cost of prepayment:

- a. Principal \$ _____
- b. Interest \$ _____
- c. Redemption premium, if any \$ _____
- d. Less Reserves \$ _____
- e. Total amount due for prepayment \$ _____

IF YOU CONCUR WITH THE ABOVE FIGURES, SIGN AND RETURN
THE ORIGINAL OF THIS NOTICE TO THE ADDRESS SHOWN ABOVE.
IF YOU DISAGREE WITH THE ABOVE FIGURES, CONTACT THE
FOLLOWING PERSON AT THE STATE BOND COMMISSION:

State Debt Analyst _____

Chief Financial Officer _____

PARISH AND LOCAL GOVERNMENT
REIMBURSEMENT CONTRACT PREPAYMENT
RECEIPT LOG

1. Name of prepaying entity _____
2. Identifying information on reimbursement contract to be prepaid
Name _____
Series _____ Issue Date _____
Amount of Original Issue _____
Principal and Interest Payment Dates: P _____ I _____
3. Check No. _____
4. Dated _____
5. Amount Received _____
6. Date Received _____
7. Deposited into: _____
(Account Name)
8. Yield restricted or yield reduction payments owed in accordance with the
following rates:
Rate of arbitrage yield for prepaying entity _____
Rate of arbitrage yield for state bond issue _____
9. Source of Funding
a. Local Bond Issue? _____
b. Tax-Revenue? _____

Carl Berthelot
First Assistant State Treasurer

9610#031

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Boll Weevil Eradication Commission

Definitions; Red River Eradication Zone; Cotton Acreage;
and Program Participation
(LAC 7:XV.9903, 9914, 9919 and 9921)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Boll Weevil Eradication Commission, is amending the following rules regarding creation of a Red River Eradication Zone, reporting of cotton acreage, and fee payment in the Boll Weevil Eradication Program. These rules comply with and are enabled by LSA-R.S. 3:3613. No preamble regarding these rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 99. Boll Weevil

§9903. Definitions Applicable to Boll Weevil

ASCS—the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture, now known as FSA (Farm Service Agency).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:

§9914. Red River Eradication Zone: Creation

A. There is hereby created an eradication zone which shall hereafter be known as the Red River Eradication Zone.

B. The Red River Eradication Zone shall consist of all those territories within the boundaries of the following parishes: Acadia, Avoyelles, Bienville, Bossier, Caddo, Claiborne, DeSoto, East Baton Rouge, Evangeline, Grant, Natchitoches, Pointe Coupee, Rapides, Red River, St. Landry, St. Tammany, Webster, West Baton Rouge, West Feliciana.

C. The effective date of the establishment of the Red River Eradication Zone shall be effective immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 23:

§9919. Reporting of Cotton Acreage

C. Noncommercial cotton shall not be planted in an Eradication Zone unless an application for a written waiver has been submitted in writing to the Commissioner stating the conditions under which such written waiver is requested, and unless such written waiver is granted by the Commissioner.

The Commissioner's decision to grant or deny a written waiver for noncommercial cotton shall include consideration of the location, size, pest conditions, accessibility of the growing area, any stipulations set forth in any compliance agreement between the applicant and the Commissioner, and any other factors deemed relevant to effectuate the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1607 and R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), LR 23:

§9921. Program Participation, Fee Payment and Penalties

Upon passage of the referendum, all cotton producers growing cotton in an Eradication Zone shall be required to participate in the eradication program as follows:

1. Each year, during the first five years of the program, cotton producers shall submit to the ASCS office the annual assessment as set by the Commission following the adjudicatory procedure of the Administrative Procedure Act, which assessment shall not exceed \$10 per acre the first year and \$35 per acre for each of the remaining years, for each acre of certified cotton acreage on file with ASCS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, R.S. 3:1612, and R.S. 3:1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 21:669 (July 1995), LR 23:

Interested persons may submit written comments on the proposed rules through November 29, 1996, to: Craig Roussel, 5835 Florida Boulevard, Baton Rouge, LA 70806.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Boll Weevil Eradication

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Following the passage of a referendum, the cost to state governmental units is \$22,859,042 over a five-year period. All costs to establish and operate the program will be paid from producer assessments and federal participation. Federal participation is anticipated to include at least \$375,000 in capitalized equipment.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The maximum estimated effect on revenue collections to state governmental units per the rule is \$25,050,000. This estimate is based on a \$150 per acre assessment over the five-year lifetime of the program. The estimate assumes an average of approximately 167,000 acres of cotton each year. Actual revenue collections are estimated to be \$22,859,042, since assessments will be limited to actual costs. Assessments will be \$10 per acre for the first year and \$35 per acre for all other years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated cost to directly affected persons is \$22,859,042. This estimate is based on a \$143.97 per acre cost over the five-year lifetime of the program. The estimate assumes an average of approximately 167,000 acres of cotton annually, with a declining cost per acre in the last three years of the program. It is anticipated that all costs associated with the program will be offset by gains from increased production and lower chemical application costs as a result of eradicating the boll weevil.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition.

Richard Allen
Assistant Commissioner
9610#086

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agro-Consumer Service
Agriculture Commodities Commission**

Fees (LAC 7:XXVII.14728)

The Department of Agriculture and Forestry, Agricultural Commodities Commission, advertises its intent to amend LAC 7:XXVII.14728. This rule complies with and is enabled by R.S. 3:3401 et seq. and will change the fee charged for sample inspections under the Louisiana Agricultural Commodities Law in order to allow the state to recover most of the actual cost of performing the sample inspection and change the fee charged for mileage to bring it in conformance with the Division of Administration, Policies and Procedures Memorandum No. 49. No preamble regarding this rule is available.

Title 7

AGRICULTURE AND ANIMALS

**Part XXVII. Agricultural Commodity Dealer
and Warehouse Law**

Chapter 147. Agricultural Commodities Commission

Subchapter E. Assessments and Fees

§14728. Fees: Amount, Time of Payment

C. Schedule of Fees:

1. - 2. ...

3. Mileage shall be billed at the rate established under the Division of Administration, Policies and Procedures Memorandum No. 49.

4. Official Services (including sampling except as indicated):

Online D/T sampling inspection service (sampling, grading and certification), per regular hour ... \$25.00

Overtime hourly rate, per hour. \$40.00

Unit Inspection Fees:

Hopper car, per car \$20.00

Boxcar, per car \$15.00

Truck/trailer, per carrier \$10.00

Barge, per 1,000 bushels \$ 2.50

Submitted sample inspection \$12.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 12:287 (May 1986), amended LR 14:528 (August 1988), LR 19:889 (July 1993), LR 23:

Interested persons may submit written comments, opinions, suggestions or data: to Bill Boudreaux, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 through the close of business November 29, 1996.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No implementation costs (savings) to state or local governmental units is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections in the form of sample inspection fees are anticipated to increase by \$2,400 for fiscal year 1996-1997, and increase by \$2,500 for fiscal years 1997-1998 and 1998-1999. Revenue collections in the form of mileage reimbursements will increase by \$.02 per mile traveled, from the \$.24 currently set to \$.26 per mile under the current Division of Administration Policy and Procedures Memorandum No. 49, for an approximate total of \$200 per fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The fee charged to licensed grain dealers or individuals utilizing the inspection services will be increased from \$6 to \$12 and the cost of mileage to perform the inspections will increase approximately \$.02 per mile. The cost to those persons would depend on the number of sample requests made.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is anticipated.

Richard Allen
Assistant Commissioner
9610#085

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Certification of Eligibles; Prohibited Activities

The State Civil Service Commission will hold a public hearing on November 20, 1996, to consider the following rule proposals. The hearing will begin at 9 a.m. and will be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

Current Rule

8.4 Certification of Eligibles

(a)-(d) ...

(e) An applicant who has obtained a baccalaureate degree from an accredited college or university with an overall grade-point average (GPA) of 3.5 or higher may be probationally appointed under the provisions of this rule to any professional level job for which possession of the baccalaureate degree alone is sufficient to meet the minimum qualifications. Jobs for which the applicant needs additional experience beyond the baccalaureate degree are excluded from this rule. The applicant must provide an official transcript to verify the GPA prior to appointment. The transcript should be submitted with the SF-1 (personnel action) effecting the appointment. Applicants appointed under this rule need not take the Professional Entry Test (P.E.T.) or other written exam to be appointed.

Proposed Revision

8.4 Certification of Eligibles

(a) - (d) ...

(e) An applicant who has obtained a baccalaureate degree from an accredited college or university with an overall grade point average (GPA) of 3.5 or higher may be probationally appointed under the provisions of this rule to any professional level job for which possession of the baccalaureate degree alone is sufficient to meet the minimum qualifications. An applicant may also be appointed under provisions of this rule to a job requiring experience beyond the baccalaureate degree when the job to which the applicant is appointed is a professional level journeyman or advanced journeyman job requiring up to but no more than three years of professional level experience beyond the degree.

In all cases, applicants appointed under this rule must meet the full minimum qualifications including the required degree plus any professional level experience required beyond the degree. However, applicants appointed under this rule do not need to take the Professional Entry Test (P.E.T.) or other written exam. They do not need a numerical score or need to have their names appear on a certificate.

When making an appointment under this rule, the hiring authority need only submit a personnel action form making a probational appointment and citing this rule as authority. For the appointment to be approved, the SF-1 must be accompanied by an official college transcript to verify the degree and 3.5 GPA and by an up-to-date application form (SF-10) to verify any required experience.

This rule applies only to probational appointments and may not be used to authorize promotions.

Explanation

In November 1992, the Department proposed the original version of this rule to facilitate hiring of the best qualified college graduates directly into entry-level professional positions without the need for testing and issuing certificates. In the latter part of 1995, the Department met with focus groups of agency managers to obtain their recommendations on actions the Department can take to improve the system in key areas. One of the recommendations of the group dealing with improving the hiring process was to extend this rule to cover probational appointments to journeyman and advanced journeyman jobs as well as entry-level. (Jobs requiring more than three years experience beyond the degree are excluded from the rule because the goal of the rule is to recruit talented recent graduates to beginning level jobs. Also, the value of basic educational achievements in relation to experience decreases as more experience is gained or required so we did not feel it appropriate to extend coverage of the rule to jobs requiring more than three years of experience beyond the degree). The Department supports the recommendation and is therefore proposing this revised rule.

Proposed New Rule

8.4 Certification of Eligibles

(f) Applicants who possess a CPA (Certified Public Accountant) Certificate may be probationally appointed to any job using test series 1000 (Professional Accountant Test) or test series 1500 (Professional Auditor Test) without taking a Civil Service test. The CPA Certificate will be deemed an acceptable substitute for the Civil Service test score. However, persons appointed under this rule must meet all minimum qualification requirements of experience and education for the job to which they are appointed. In order to appoint someone under this rule, the hiring authority must submit:

- 1) a personnel action form (SF-1) citing Rule 8.4(f) as the authority;
- 2) a current and complete application form (SF-10) to verify experience;
- 3) an official transcript to verify required college semester hours in accounting;
- 4) a copy of the CPA certificate.

This rule applies only to probational appointments and may not be used to authorize promotional appointments.

Explanation

The Louisiana Society of CPAs has requested that we consider exempting applicants who possess CPA certificates from Civil Service testing. The basis is that the CPA exam is a comprehensive exam at least equivalent if not more thorough in its measurement of accounting knowledge. We agree to the extent that we are willing to allow passing the CPA exam to substitute for competing on the Civil Service exams for probational appointments. This will facilitate recruiting CPAs into state service at the entry and lower levels as initial hires. We are excluding promotions from the rule because in competitive promotional situations applicants must be ranked by scores on comparable tests. We cannot legitimately construct a register with some grades being from the Civil Service exam and others from the CPA exam. Nor

are we willing in promotional situations to allow merely passing the CPA exam to substitute for competition.

Proposed Amendment to Rule 14.1(m)

14.1 Prohibited Activities

(a) - (l) ...

(m) It shall be the duty of every classified employee to assist the Commission and the Department of State Civil Service in effectively carrying out the provisions of the Article and Rules, and to assist the State Police Commission in effectively carrying out the provisions of Article X, Part IV, and the Rules of the State Police Commission and to answer truthfully, whether under oath or otherwise, all proper questions put to him by authorized representatives of the Department or the Commission, or of the State Police Commission.

(n) - (p) ...

Explanation

The State Police Commission has adopted a rule that requires members of the State Police Service to cooperate with an investigation being conducted by the State Civil Service Commission. This amendment would reciprocate by requiring that our employees cooperate with an investigation conducted by the State Police Commission.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of State Civil Service, Box 94111, Baton Rouge, LA 70804-9111.

If any accommodations are needed, please notify the commission prior to this meeting.

Allen H. Reynolds
Acting Director

9610#018

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Service Rating; Performance Appraisal; and
Annual and Sick Leave

The State Civil Service Commission will hold a public hearing on November 20, 1996, to consider the following rule proposals. The hearing will begin at 9 a.m. in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana.

Proposed Amendments to Rules 10.4(b) and 10.22(b)

10.4 Right of Appeal of Service Rating

(a) ...

(b) When an employee who has been assigned an "Unsatisfactory" service rating appeals to his appointing authority for a review of the rating, a hearing on the rating shall be granted and held before the appointing authority, his designated agent or agents, within 30 calendar days of receipt

of the employee's appeal. The employee shall be given an opportunity to be heard and to call witnesses and introduce other evidence in his behalf. Within 15 calendar days following the hearing, the appointing authority, agent or agents, shall render a written decision sustaining or modifying the rating which has been appealed and shall furnish the employee a copy of such decision.

(c) - (d) ...

10.22 Right of Appeal of Performance Appraisal Rating

(a) ...

(b) When a permanent employee who has been assigned a "Needs Improvement" or "Unsatisfactory" performance rating or re-rating appeals to his appointing authority for a review of the rating, a hearing on the rating shall be granted and held before the appointing authority, or his designated agent(s) within 30 calendar days of the receipt of the employee's appeal. The employee shall be given an opportunity to be heard and to call witnesses or introduce arguments in his behalf. Within 15 calendar days following the hearing, the appointing authority or his designated agent(s) shall render a written decision sustaining, modifying, or rescinding the rating which has been appealed and shall furnish the employee a copy of such decision. This written decision shall notify the employee of his right to appeal to the Commission.

(c) - (d) ...

Explanation

These amendments give an agency 30 days instead of 15 days to grant a hearing regarding an "Unsatisfactory" service rating (and an "Unsatisfactory" or "Needs Improvement" rating under an approved performance appraisal system) after the employee appeals the service rating to the appointing authority. Some agencies have found that 15 days is an insufficient amount of time to prepare for the hearing. Time is needed to review the appeal, select hearing officers who have had no working contact with the employee, allow time for the hearing officers to review the appeal, secure lists of witnesses to be questioned, schedule the time and place for the hearing, schedule witnesses, conduct the hearing, etc. Also, the change to 30 days will adjust this period to the same amount of time the employee has to appeal in writing to the appointing authority.

Proposed Amendments to Rules 11.7(c) and 11.13(c)

11.7 Use of Annual Leave

(a) - (b) ...

(c) Each appointing authority shall select a method to charge the annual leave records of all employees. The minimum charge to annual leave records shall be not less than one-tenth hour (6 minutes) nor more than one-half hour.

(d) ...

11.13 Use of Sick Leave

(a) - (b) ...

(c) Each appointing authority shall select a method to charge the sick leave records of all employees. The minimum charge to sick leave records shall be not less than one-tenth hour (6 minutes) nor more than one-half hour.

(d) - (e) ...

Explanation

These proposed amendments will give appointing authorities a broader choice of what minimum charge to make

to annual and sick leave records. The current rules give a choice between one-half hour and one-tenth hour (six minutes). These amendments will allow other options, such as 10 or 15 minutes. Of course, as before, the proposals would require the appointing authority to use the same method for charging leave records for both annual and sick leave. For example, if one chooses to charge a minimum of 15 minutes, it must apply to both sick and annual leave.

Proposed Amendment to Rule 11.10(a)

11.10 Payment for Annual Leave Upon Separation

(a) Subject to Rule 11.18(a) and Subsection (b) of this rule, each employee upon separation from the classified service shall be paid the value of his accrued annual leave in a lump sum disregarding any final fraction of an hour; provided, that the privileges of this rule shall not extend to any employee who is dismissed for theft of agency funds or property. The payment for such leave shall be computed as follows:

1 - 2 ...

(b) - (g) ...

Explanation

This amendment clarifies that if the proposed amendment to Rule 11.18(a) is adopted, an agency must transfer annual leave rather than pay for it, if there is no break in service.

Proposed Amendment to Rule 11.18(a)

11.18 Cancellation or Continuance of Annual and Sick Leave

(a) When an employee separates from the state classified service, all accrued annual leave except that for which he must be paid and all accrued sick leave shall be canceled; however, if the employee is reemployed or transfers to another department in probational or permanent status without a break in service of one or more working days, all of the employee's annual leave shall be transferred to the hiring agency.

(b) - (e) ...

Explanation

It causes a monetary hardship on employees to be paid for up to 300 hours of accrued annual leave, and then, upon being rehired without a break in service of one working day, the value of the annual leave has to be repaid. This is true because taxes are withheld when the losing agency issues a check for the leave. The employee then loses this amount of money. This amendment mandates the losing agency to transfer the annual leave to the hiring agency. In practice, many agencies actually have transferred annual leave in this way so as not to penalize the employee.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of State Civil Service, Box 94111, Baton Rouge, LA 70804-9111.

If any accommodations are needed, please notify the commission prior to this meeting.

Allen H. Reynolds
Acting Director

9610#064

NOTICE OF INTENT

Department of Economic Development Board of Architectural Examiners

Placing of Seal or Stamp (LAC 46:I.1105)

Under the authority of R.S. 37:144 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated to amend LAC 46:I.1105 pertaining to sealing or stamping construction document drawings and specifications. The Board proposes to clarify its existing rule and replace it with the following:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Administration

§1105. Placing of Seal or Stamp

A. An architect shall affix his or her seal or stamp to all construction document drawings which were prepared by the architect or under the architect's responsible supervision. Construction document drawings prepared by a consulting electrical, mechanical, structural, or other engineer shall be sealed or stamped only by the consulting engineer.

B. An architect shall clearly identify the specification sections prepared by that architect or under that architect's responsible supervision and distinguish such sections from those prepared by consulting engineers. An architect shall affix his or her seal or stamp either to:

1. each specification section, page, or sheet prepared by or under the responsible supervision of the architect, or

2. the appropriate portion of any Seals/Stamp Page in the specification document which identifies the specification sections prepared by the architect or under his or her responsible supervision and those sections prepared by consulting engineers. Consulting engineers shall affix their seal or stamp either to each specification section, page, or sheet prepared by that consultant, or to that portion of any Seals/Stamp Page which identifies the specification sections prepared by that consultant.

C. If a public or governmental agency requires further certification by the architect (such as that the title or index page of the specifications be certified by the architect), the architect's further certification shall include a description of exactly what drawings and what portions or sections of the specifications were prepared by or under the architect's responsible supervision, and what drawings and what portions or sections of the specifications were prepared by others. In addition, the architect shall include a certification from any consulting engineers as to what drawings and what portions or sections of the specifications were prepared by or under the responsible supervision of the consulting engineers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:145-146.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:334 (September 1978), repromulgated LR 10:739 (October 1984), amended LR 20:534 (May 1994), LR 23:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Placing of Seal or Stamp

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units associated with this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition or employment associated with this proposed rule.

Mary "Teeny" Simmons
Executive Director
9610#072

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Board of Architectural Examiners

Renewal Procedure (LAC 46:I.1101)

Under the authority of R.S. 37:144 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated to amend LAC 46:I.1101 pertaining to license renewal procedures. The Board proposes to increase the renewal license registration fee and the delinquent fee charged to an architect domiciled outside Louisiana from \$100 to \$125.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Administration

§1101. Renewal Procedure

A. A license for individual architects shall expire and become invalid on December 31 of each year. Licenses for professional architectural corporations architectural-engineering corporations, and limited liability companies shall expire and become invalid on June 30 of each year. An individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company who desires to continue his or its license in force shall be required annually to renew same.

B. It is the responsibility of the individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company to obtain, complete, and timely return a renewal form and fee to the Board office, which forms are available upon request from said office.

C. Prior to December 1 of each year the Board shall mail to all individual architects currently licensed a renewal form. An individual architect who desires to continue his license in force shall complete said form and return same with the renewal fee prior to December 31. The license renewal fee for an individual architect domiciled in Louisiana shall be \$50; the license registration fee for an individual domiciled outside Louisiana shall be \$125. Upon payment of renewal fee the Executive Director shall issue a renewal certificate.

D. Prior to June 1 of each year the Board shall mail to all professional architectural corporations, architectural-engineering corporations, and limited liability companies currently licensed a renewal form. A professional architectural corporation, an architectural-engineering corporation, and a limited liability company which desires to continue its license in force shall complete said form and return same with the renewal fee prior to June 30. The fee shall be \$50. Upon payment of the renewal fee, the Executive Director shall issue a renewal license.

E. The failure to renew a license timely shall not deprive the architect of the right to renew thereafter. An individual architect domiciled in Louisiana who transmits his renewal form and fee to the Board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$50. An individual architect domiciled outside Louisiana who transmits his renewal form and fee to the Board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$125. The delinquent fee shall be in addition to the renewal fee set forth in the §1101.C.

F. The failure to renew its license in proper time shall not deprive a professional architectural corporation, an architectural-engineering corporation, or a limited liability company of the right to renew thereafter. A professional architectural corporation, an architectural-engineering corporation, or a limited liability company who transmits its renewal form and fee to the Board subsequent to June 30 in the year when such renewal fee first became due shall be

required to pay a delinquent fee of \$50. This delinquent fee shall be in addition to the renewal fee set forth in §1101.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:334 (September 1978), LR 10:739 (October 1984), LR 10:737 (October 1984), amended by Department of Economic Development, Board of Architectural Examiners, LR 15:7332 (September 1989), LR 20:995 (September 1994), repromulgated LR 20:1259 (November 1994), amended LR 23:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Renewal Procedure**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not impose any additional workload on the Board, since the Board presently charges a renewal license registration fee and a delinquent fee to architects domiciled outside Louisiana. The only difference is the amount of the fees being collected.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

During the last calendar year, 1368 architects domiciled outside Louisiana timely renewed their licenses, and 100 architects domiciled outside Louisiana untimely did so. Assuming the same number of architects domiciled outside Louisiana timely and untimely renew their licenses after this rule is amended, the fee increases would generate an additional \$36,700 in revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no effect on architects domiciled in Louisiana. Architects domiciled outside Louisiana will be required to pay a \$125 renewal license registration fee and a \$125 delinquent fee (rather than the \$100 which is presently charged for each).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Because of the fee increases, some architects domiciled outside Louisiana may decide against renewing their licenses in Louisiana. However, because the amount of the fee increase is only \$25 per architect, it is anticipated that the number of architects domiciled outside Louisiana who will not renew their licenses in Louisiana because of the fee increases will be insignificant.

Mary "Teeny" Simmons
Executive Director
9610#073

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Division of Economically Disadvantaged**

**Economically Disadvantaged Business Development
Program (LAC 19:II.Chapters 1-13)**

In accordance with the Louisiana Economically Disadvantaged Business Act of 1996 (R.S. 51:1751 through 1765, and the provisions of the Administrative Procedure Act, R.S. 49:950-970 as amended) the Department of Economic Development, Division of Economically Disadvantaged Business Development, hereby proposes the following rules relative to the Economically Disadvantaged Business Development Program to be effective January 20, 1997. These regulations are both substantive and technical in nature, and are intended to specify the procedure for certification and as qualification for an economically disadvantaged business; to provide for bonding and other financial assistance; to provide for technical and managerial assistance; to provide for a business mentor-protege program; to recognize achievements for economically disadvantaged businesses; and to facilitate access to state agency procurement.

These regulations shall apply to all state departments, boards or commissions, or educational institutions, created by the Legislature or Executive Order within the Executive Branch of state government pursuant to Title 36, operating from funds appropriated, dedicated or self-sustaining, federal funds; or funds generated from any other source. These regulations will not apply to agencies of the judicial or legislative branches of state government, except to the extent that procurement or public works activities for these branches are performed by an executive branch agency.

Title 19

**CORPORATIONS AND BUSINESS
Part II. Economically Disadvantaged
Business Development Program**

Chapter 1. General Provisions

§101. Statement of Policy

In accordance with the Louisiana Economically Disadvantaged Business Act of 1996 (R.S. 51:1751 through 1765 and the provisions of the Administrative Procedure Act, R.S. 49:950-970 as amended) the Department of Economic Development, Division of Economically Disadvantaged Business Development, these regulations are both substantive and technical in nature. They are intended to specify the procedure for certification and as qualification for an economically disadvantaged business; to provide for bonding and other financial assistance; to provide for technical and managerial assistance; to provide for a business mentor-protege program; to recognize achievements for economically disadvantaged businesses; and to facilitate access to state agency procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

§103. Purpose

The purpose and intent of this Chapter is to provide the maximum opportunity for economically disadvantaged businesses to become competitive in a nonpreferential modern economy. This purpose shall be accomplished by providing a program of assistance and promotion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

§105. Definitions

When used in these regulations, the following terms shall have meanings as set forth below:

Certification—verification that a business qualifies for designation as an economically disadvantaged business.

Division—the division of economically disadvantaged business development in the Department of Economic Development.

Economically Disadvantaged Business (EDB)—a small business organized for profit and performing a commercially useful function which is at least 60 percent owned and controlled by one or more economically disadvantaged persons and which has its principal place of business in Louisiana. A nonprofit organization is not an economically disadvantaged business for purposes of this Chapter.

Economically Disadvantaged Person—a citizen or lawful resident of the United States who has resided in Louisiana for at least one year and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business, and whose diminished opportunities have precluded, or are likely to preclude, such individual from successfully competing in the open market.

Executive Director—the Director of the Division of Economically Disadvantaged Business.

Firm—a business that has been certified as economically disadvantaged.

Full-time—working in the firm at least 35 hours per week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

§107. Eligibility Requirements for Certification

A. An economically disadvantaged business (EDB) is a firm that is owned and controlled by one or more economically disadvantaged individuals and meets the requirements of economic disadvantaged businesses. Eligibility requirements falls into two categories that apply to the individual owners and to the applicant's firm. In order to continue participation in the program, a firm and its individual owners must continue to meet all eligibility requirements.

B. Economically Disadvantaged Persons. For purposes of the program, a person who meets all of the criteria in this Section shall be defined as an economically disadvantaged individual:

1. Citizenship. The person is a citizen or lawful resident of the United States.

2. Louisiana Residency. The person has resided in Louisiana for at least one year.

3. Net Worth. Each individual owner's personal net worth may not exceed \$150,000.

4. Income. Each individual owner must submit personal federal income tax returns for the past three years.

C. Economically Disadvantaged Business

1. Ownership and Control. At least 60 percent of the company must be owned and controlled by one or more economically disadvantaged individuals.

2. Business Size. For purpose of Louisiana's EDB program, an eligible firm's size shall be defined as 50 percent or less of the published U.S. Small Business Administration's size standards by SIC codes.

3. Principal Place of Business—the firm's principal place of business must be Louisiana.

4. Lawful Function. The company has been organized for profit to perform a lawful, commercially useful function.

5. Business Annual Gross Revenue. A business's annual gross revenue may not exceed the Louisiana EDB's size standards by SIC Code. Where the EDB program size standards utilize "number of employees" instead of a monetary figure, the Louisiana EDB Program shall use \$10.5 million in gross revenue as the qualifying monetary standard.

6. Business Net Worth. The business' net worth at the time of application may not exceed \$750,000.

7. Diminished Capital and Credit

a. A firm will be considered to have diminished capital and credit if its ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to other firms in the same or similar line of business, and whose diminished opportunities have precluded, or are likely to preclude, such firm from successfully competing in the open market. Examples of diminished capital and credit are lack of access to long-term financing or credit, working capital financing, equipment trade credit, raw materials, supplier trade credit, and bonding. The applicant must furnish documentation that credit was denied on at least three occasions or separate applications for each area of credit that applies to the firm's type of business, condition, or situation. An applicant firm that score poorly on all financial measurements published by the Robert Morris Associates for liquidity, leverage, operating efficiency and profitability is considered to be economically disadvantaged. Factors to be considered are:

- i. business assets;
- ii. net worth;
- iii. income;
- iv. profit;

b. The latest revision of the Annual Statement Studies, published by Robert Morris Associates (the "RMA") will be used. Factors to be compared are:

- i. current ratio;
- ii. quick ratio;
- iii. inventory turnover;
- iv. account receivable turnover;

- v. sales to working capital;
- vi. debt-to-net worth ratio;
- vii. return on assets;
- viii. percentage return on investment;
- ix. percentage return on sales.

8. **Full Time.** Managing owners who claim economically disadvantaged status must be full time employees of the applicant firm.

9. **Job Creation.** An applicant firm must have a minimum of at least two full-time employees. A waiver may be granted for this requirement dependant upon the firm's plans for expansion.

D. **Documents Required for Certification.** The application shall be supported by but not limited to the following documents:

- 1. business's balance sheet and income statement;
- 2. verification of signatories on bank accounts;
- 3. copies of income tax returns;
- 4. resumes of owners and top managers;
- 5. copies of business licenses and permits;
- 6. copies of stock certificates, stock transfer ledgers, and articles of incorporation if business is a corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1751, 1752, and 1754.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

§109. Control and Management

A. **Description.** An applicant firm's management and daily business operations must be controlled by an owner(s) of the applicant firm who has/have been determined to be economically disadvantaged. In order for a disadvantaged individual to be found to control the firm, that individual must have managerial or technical experience and competency directly related to the primary industry in which the applicant firm is seeking program certification.

1. The economically disadvantaged individual(s) upon whom eligibility is based shall control the Board of Directors of the firm, either in actual numbers of voting Directors or through weighted voting. In the case of a two-person Board of Directors where one individual on the Board is disadvantaged and one is not, the disadvantaged vote must be weighted by share ownership—worth more than one vote to achieve a minimum of 60 percent control—in order for the firm to be eligible for the program. This does not preclude the appointment of Nonvoting or Honorary Directors. All arrangements regarding the structure and voting rights of the Board must comply with state law and with the firm's Articles of Incorporation and/or Bylaws.

2. Individuals who are not economically disadvantaged may be involved in the management of an applicant's firm and may be stockholders, partners, officers, and/or directors of such firm. Such individual(s), their spouses or immediate family members who reside in the individual's household may not, however:

- a. exercise actual control or have the power to control the applicant or certified firm;
- b. be an officer or director, stockholder, or partner of another firm in the same or similar line of business as the applicant or certified firm;

c. receive excessive compensation as directors, officers, or employees from either the applicant or certified firm. Individual compensation from the firm in any form, including dividends, consulting fees, or bonuses, which is paid to a non-disadvantaged owner, his/her spouse or immediate family member residing in the same household will be deemed excessive if it exceeds the compensation received by the disadvantaged chief executive officer, president, partner, or owner, unless the compensation is for a clearly identifiable skill for which market rates must be paid for the firm to utilize the person's expertise;

d. be former employers of the economically disadvantaged owner(s) of the applicant or certified firm, unless the Division determines that the contemplated relationship between the former employer and the disadvantaged individual or applicant firm does not give the former actual control or the potential to control the applicant or certified firm and if such relationship is in the best interests of the certified firm.

B. **Non-disadvantaged Control.** Non-disadvantaged individuals or entities may not control, or have the power to control, the applicant firm. Examples of activities or arrangements which may disqualify an applicant firm from certification are:

- 1. a non-disadvantaged individual, such as an officer or member of the Board of Directors of the firm, or through stock ownership, has the power to control daily direction of the business affairs of the firm;
- 2. the non-disadvantaged individual or entity provides critical financial or bonding support or licenses to the firm, which directly or indirectly allows the non-disadvantaged individual to gain control or direction of the firm;
- 3. a non-disadvantaged individual or entity controls the firm or the individual disadvantaged owners through loan arrangements;
- 4. other contractual relationships exist with non-disadvantaged individuals or entities, the terms of which would create control over the disadvantaged firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

§111. Responsibility for Applying

A. It is the responsibility of any business wishing to participate in the Program to complete the required certification process and to provide all the information requested. Failure to provide complete, true, or accurate data may result in rejection of the application to participate in the Program.

B. Certification materials will be distributed by the Division upon written or verbal request. Written requests for certification materials should be directed to the Division of Economically Disadvantaged Business Development, Baton Rouge, LA 70804.

C. Certification as an economically disadvantaged business does not constitute compliance with any other laws or regulations and does not relieve any firm of its obligations under other laws or regulations. Certification as a disadvantaged business also does not constitute any

determination by the Division or that the firm is responsible or capable of performing any work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1755.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

§113. Certification Application Procedure

A. Applicant submits a completed certification application and supporting documents to the Division.

B. The Division reviews the certification application. If it is incomplete or further information is needed, the Division will contact applicant. If the applicant does not respond within 15 days, the application will be denied.

C. The Division shall conduct a site visit at the firm's place of business, prior to certification.

D. Information obtained from the site visit is added to the file and a written recommendation is made to the Division's Executive Director.

E. The Executive Director notifies the applicant in writing of the decision whether or not to grant certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753, 1755.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

§115. Duration of Certification

A. The maximum amount of time that a firm may be granted certification by the Division is seven years.

B. Retention of the firm in the Program depends upon time, the firm's progress toward attainment of its business goals, willingness or ability to cooperate and follow through on recommendations of the Division.

C. When the applicant firm's score on all financial measurements, per their SIC Code published by the Robert Morris Associates for liquidity, leverage, operating efficiency and profitability equals to or better than the national average, the firm will be graduated from the program if the firm's participation in the program has been less than seven years. No individual will be allowed to reenter the program under another business name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1755.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

§117. Reports By Certified Economically Disadvantaged Businesses

A. Report Form. On forms identified or prescribed by the Division, certified businesses shall report at times specified by the Division their financial position and attainment of the business' performance goals.

B. Verification of Eligibility. The Division may take any reasonable means at any time to confirm a certified firm's eligibility, such as by letter, telephone contact, contact with other governmental agencies, persons, companies, suppliers, or by either announced or unannounced site inspection.

C. Notification of Changes. To continue participation, a certified firm shall provide the Division with a notarized statement of any changes in address, telephone number, ownership, control, financial status, or major changes in the

nature of the operation. Failure to do so may be grounds for termination of eligibility.

D. Evaluation. The Division, at such times it deems necessary, shall evaluate the information to determine progress, areas for further improvement, resources needed by the firm, and eligibility for continued participation in the Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1757.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

§119. Deception Relating to Certification of Economically Disadvantaged Business

Any person found guilty of the crime of deception relating to certification of an economically disadvantaged business as provided in R.S. 51:1764 will be discharged from the program and will not be eligible to reapply under the business name involved in the deception or any business with which such individual(s) maybe associated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1764.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

Chapter 3. Developmental Assistance Program

§301. Developmental Assistance

A. Purpose. The Division will coordinate technical, managerial, and financial assistance through internal and external resources to assist certified economically disadvantaged businesses to become competitive in their markets.

B. Developmental Steps

1. The Division will conduct a preliminary analysis of the firm's situation to determine its strengths and weaknesses.

2. Determination of Assistance. In consultation with the Division's staff, the business owner will determine areas in which he/she needs assistance.

3. Referral to Additional Resources. The Division will assist the firm obtain intensive technical or managerial assistance from other resources, such as Small Business Development Centers, Procurement Centers, consultants, business networks, professional business associations, educational institutions, and other public agencies. The Small Business Development Centers shall be the point of entry for such assistance.

4. Ongoing Evaluation. In conjunction with the economically disadvantaged firm and appropriate external resources, the Division will periodically assess the EDB's progress toward attainment of its business goals. The Division, in conjunction with the EDB firm, will determine the effectiveness of assistance being administered. If assistance is ineffective, the Division will investigate and take appropriate action.

5. Graduation from the Program. After a pre-agreed performance or time has been reached, or combination of the two, the EDB will graduate from the Program. Companies that do not make satisfactory progress will be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

Chapter 5. Mentor-Protege Program

§501. Mentor-Protege

Purpose. The Division shall design and conduct a business mentor-protege program to bring non-economically disadvantaged businesses into a systematic working relationship with a certified economically disadvantaged business for their mutual, commercial benefit and for the development of the protege firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

Chapter 7. Recognition Program

§701. Recognition

Purpose. The Division will publicly recognize outstanding accomplishments or contributions from economically disadvantaged businesses, public agencies, and non-economically disadvantaged firms. Companies and agencies that would be recognized include:

1. EDB Graduates. Economically disadvantaged businesses which graduate from the program by reaching their goals.

2. Outstanding EDB Firms. Economically disadvantaged companies which demonstrate outstanding performance beyond reaching their goals or which showed unusual effort, persistence, quality service or products, or creativity at overcoming obstacles.

3. Cooperative Agencies. Public agencies that show exceptional cooperation or success in working with economically disadvantaged companies.

4. Cooperative Non-EDB Firms. Companies in the private sector that demonstrate unusual efforts at promoting or buying from economically disadvantaged businesses or have been outstanding mentors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

Chapter 9. Small Business Bonding Program

§901. Small Business Bonding Assistance

A. Program Activities - Louisiana Contractors Accreditation Institute: (LCAI)

1. Eligibility. All economically disadvantaged business construction contractors who are certified by the Division of Economically Disadvantaged Business Development, Department of Economic Development, are eligible to attend the institute. However, other contracting businesses will be invited to attend the institute but they will not be able to receive the grant assistance or bond guarantee until they have been certified by the Economically Disadvantaged Business Development Program.

2. Standards and Procedures for Determining Course Content. The Director of Bonding Assistance Program (BAP) will once a year consult with the heads of the construction schools in Louisiana approved by the Board of Regents and

Department of Education to ensure that current course content adequately prepares the students to run their construction firms in a businesslike manner.

3. Attendance. Attendance is open to only certified or potentially certified economically disadvantaged business construction contractors. However, contractors must register for institute he or she wish to attend. Each contractor who successfully completes the LCAI will be issued a certificate of accreditation which qualifies them to receive the grant assistance and bond guarantee phases of the program.

4. Accreditation Without Institute Attendance. An EDB firm may request to be accredited without attendance. The Director of the BAP will conduct a review of the firm. If the contractor can present evidence he conducts business within standards set by Best Practices, the Director may issue accreditation to the firm.

5. Accreditation by Test Only. Should the accreditation in Paragraph 4, supra, be denied, the firm may gain an accreditation without attending the institute by obtaining an acceptable score on the test administered during the institute.

6. Grant Assistance

- a. Eligibility. The primary goal of the Bonding Assistance Program (BAP) is to increase the number of bonds received by Economically Disadvantaged Business (EDB) on reasonable terms. Toward this end, certified economically disadvantaged business contractors are eligible to receive the grant assistance provided for by these rules. All EDB contractors will be deemed to have the required level of capability necessary to be eligible for professional assistance if they are accredited pursuant to §501.C, D, or E of these rules. The contractor must demonstrate economic need.

- b. Method of Receiving the Grant Assistance. An accredited contractor is automatically eligible to receive the grant assistance upon successfully completing the LCAI courses and agreeing to the following:

- i. to participate in surveys designed to evaluate the effectiveness of the services received and to assure that the services were adequately performed;

- ii. they authorize BAP to furnish relevant information to the assigned professional;

- iii. they waive all claims against BAP, the Department of Economic Development, and the State of Louisiana arising from this assistance.

- c. Eligible Professionals. The professionals selected to deliver the services will be mutually agreed upon by the contractor, the local Small Business Development Center (SBDC) and Director of the BAP.

- d. Successful Completion of Contract. The Local SBDC's procurement policies and procedures along with BAP's evaluation process will be used to monitor contract performance. The SBDC will allow DED personnel to inspect all relevant files.

7. Direct Bonding Assistance. All certified economically disadvantaged businesses that have been accredited by the LCAI may be eligible for surety bond guarantee assistance from the Louisiana Economic Development Corporation (LEDC). Such assistance will be provided in accordance with rules promulgated by LEDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

Chapter 11. Promotion of Economically Disadvantaged Businesses

§1101. Promotion

A. Directory

1. **Compilation.** The Division shall compile a directory of all certified economically disadvantaged businesses and make it available to the businesses and governmental agencies.

2. **Frequency of Publication.** The directory shall be updated at least annually, based upon information provided by certified businesses. The Division may issue updated directories more frequently.

3. **Volume and Distribution.** At least one copy of the directory will be made available to each state agency and educational institution, and copies will be provided to the State Library. Additional copies may be made available to the public and governmental agencies as Division's resources permit.

4. **Available Information.** Public information concerning an economically disadvantaged business may be obtained by contacting the Division of Economically Disadvantaged Business Development during normal working hours.

B. **Other Promotional Means.** The Division will utilize other feasible means of promoting economically disadvantaged businesses, such as, but not limited to, the Internet, world wide web, electronic bulletin boards, trade shows, or private sector contacts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

Chapter 13. Complaints and Investigations

§1301. Complaints and Investigation of Ineligibility

A. **Right To File Complaint.** Any individual, firm, or governmental agency which believes that a certified business does not qualify for certification may file a written, signed complaint with the Division. The complaint must contain sufficient information for Division to conduct an investigation, including specific identification of the affected business, basis for the charge of ineligibility, and identification, mailing address, and telephone number of the complainant.

B. **Right to Due Process.** No disadvantaged business shall be decertified based upon a complaint, without first having had an opportunity to respond to the allegations. However, failure of the disadvantaged business to respond to the Division's notification within 30 calendar days of mailing from the Division may result in revocation of certification.

C. Investigative Procedure

1. **Notification of Allegation.** The Division shall notify the certified business which is subject of the complaint by certified mail, return receipt requested, of the allegation within 15 calendar days of the complaint's receipt.

2. **Investigation Conducted.** Within available resources, the Division shall investigate each complaint as promptly as possible. In no event shall the investigation extend beyond 60 calendar days from the date that the complaint was received.

3. **Cooperation.** The disadvantaged business enterprise shall cooperate fully with the investigation and make its staff and records available to Division if requested. Insufficient cooperation may be grounds for concluding that the firm has not borne the burden of proving to the satisfaction of the Division that it is eligible for certification, resulting in revocation of certification.

4. Upon completion of the investigation, the Division's Executive Director shall make a determination and issue a written decision which either rejects the complaint or revokes the certification within 10 working days. A copy of the written decision shall be sent to the firm that was subject of the complaint, the complainant, and the Director of the Division of State Purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1760.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

§1303. Grounds and Procedure for Reconsideration of Denial

A. **Right to Petition.** A decision by the Division to deny issuing certification, deny renewal of certification, or to revoke certification will be reconsidered after an applicant business has submitted a written petition for reconsideration to the Executive Director of Division.

B. **Grounds.** Grounds for petitioning Division to reconsider a denial or revocation of certification are that the Division of Economically Disadvantaged Business Development:

1. did not have all relevant information;
2. misapplied its rules;
3. otherwise made an error in reaching its original decision.

C. **Right to Petition for Reconsideration.** A petitioning business may appeal Division's decision to deny issuance of certification, to deny recertification, or to revoke certification. Only a firm which is subject of the denial or revocation has a right to petition for reconsideration.

1. **Petition Submitted.** The appellant business submits a written petition for reconsideration to the Division's Executive Director. If the petition has not been received by the Division within 30 days of the date of the letter announcing the denial or revocation, the Division's decision becomes administratively final.

2. The petition shall specify grounds upon which a reconsideration is justified and the type of remedy requested. The petition for reconsideration must also clearly identify a contact person, mailing address, telephone number. The petitioning firm may provide any additional information which would be pertinent to the issue.

3. **Acknowledgment.** Upon receiving a petition for reconsideration, Division shall acknowledge its receipt by sending certified mail, return receipt requested, to the petitioner within five working days.

4. **Reconsideration.** The Division shall consider the petition and review all pertinent information, including additional information provided by the appellant business. Division may conduct further investigation as necessary.

5. **Notification of Decision.** No later than 60 calendar days from receipt of the petition for reconsideration, the Division shall notify the petitioner by certified mail, return receipt requested, of its decision either to affirm the denial or revocation, with specific reason(s) of the grounds for the decision.

D. **Final Decision.** A decision to deny, revoke, or suspend certification following consideration of a petition for reconsideration is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1762.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 23:

All interested persons are invited to submit written comment on the proposed rules and regulations. Such comments should be submitted no later than November 20, 1996 at 5 p.m. to Henry J. Stamper, Executive Director, Division of Economically Disadvantaged Business Development, Box 94185, Baton Rouge, LA 70804; or to 101 France Street, Baton Rouge, LA 70802.

Henry J. Stamper
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE: Economically Disadvantaged Business
Development Program**

I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Economically Disadvantaged Development Program provides maximum opportunity for economically disadvantaged businesses to become competitive in a nonpreferential modern economy. This purpose will be accomplished by providing assistance and promotion. The Department of Economic Development is adopting rules in accordance with Act 29, of the First Extraordinary Session, 1996 (HB 24), which allows for the creation of the Division of Economically Disadvantaged Business Development within the Office of the Secretary, in the Department of Economic Development.

The Economically Disadvantaged Business Development Program combined with the Louisiana Small Business Bonding Assistance Program will replace the Division of Minority and Women's Business. The new program will utilize the resources of the former Division of Minority and Women's Business, the existing Louisiana Small Business Bonding Assistance Program, and the addition of two Small Business Advisors (GS-18) to provide business assistance to economically disadvantaged business statewide. The program will cost \$982,280 to implement in FY 1996-97, which represents an increase of \$504,702 over last year's funding of the Minority

and Women's Business Division and the Louisiana Small Business Bonding Assistance Program. The estimated costs are \$305,890 for total personal services; \$31,015 for travel expenses for the staff; \$114,637 for operating services, supplies and acquisitions; and \$530,738 in other charges. Other charges include \$89,175 for contracted technical assistance; \$35,000 for small business bonding workshops for small construction firms; \$401,373 in bonding technical assistance; \$5,190 in special marketing. The program will employ an executive director, Director of small business bonding assistance, administrative services assistant/secretary, and five business advisors.

II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The program will have no direct effect on revenue collections. However, as economically disadvantaged firms prosper, they will have a positive fiscal impact on state and local government. However, the impact cannot be quantified at this time.

III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

The Program will enable Economically Disadvantaged Businesses to expand and strengthen by becoming more competitive. The impact, however, cannot be quantified at this time since there are no historical data available to make reliable projections. According to the 1994 small business profile for Louisiana as published by the US Small Business Administration, Office of Advocacy, there were 73,186 business firms in Louisiana in 1991. Small businesses comprised 97.6 percent of the total. It is estimated that 40 percent of small business in Louisiana are economically disadvantaged. It is estimated that 1,500 businesses will participate in the program.

IV. **ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The enhanced ability of EDB's will increase competition and employment in the Louisiana economy. No data exist to estimate the impact or to make a reliable projection until experiential data have been collected.

Henry J. Stamper
Executive Director
9610#048

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

Bank Insurance Activities: Sale of Insurance (LAC 10:III.591)

In accordance with the authority granted by the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Banking Law, R.S. 6:1 et seq., particularly R.S. 6:121 and R.S. 6:242, the Department of Economic Development, Office of Financial Institutions hereby gives notice of intent to adopt the following rule to preserve the dual banking system by granting state banks the same powers possessed by national banks under 12 U.S.C.A. §92.

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES, AND UCC
Part III. Banks

Chapter 5. Powers

Subchapter F. Sale of Insurance

§591. Definitions

As used in this regulation:

Affiliate—a corporation which owns or controls a bank, and any other corporation which is owned or controlled by the corporation which owns or controls the bank, including but not limited to entities defined as affiliates under the provisions of 12 U.S.C.A. §221a. (b), and 12 U.S.C.A. §371c. (b), as those provisions from time to time may be amended or revised.

Bank—any state bank and, to the extent applicable, any national bank. When the context so requires, the term bank shall mean an ECB as defined herein.

Commissioner—the Commissioner of the Louisiana Office of Financial Institutions.

Department—the Louisiana Department of Insurance.

Eligible Community—any community the population of which, as determined by the last decennial census, does not exceed 5,000.

Eligible Community Bank ("ECB")—any state bank with an office located in an eligible community. As used herein, unless the context indicates otherwise, the term shall include any bank subsidiary, affiliate, or any officer, director or employee of the bank, bank subsidiary, or affiliate.

Insurance—a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies. The term shall include any kind of insurance recognized under the laws of Louisiana, but shall not include the following:

a. annuities, including but not limited to annuities governed by the provisions of LAC 10:I.571-573 [LR 19:611 (5/20/93)];

b. any credit insurance which banks are authorized to sell pursuant to the provisions of the Louisiana Banking Law LSA-R.S. 6:1 et seq., the Louisiana Consumer Credit Law, LSA-R.S. 9:3510 et seq., or the Motor Vehicle Sales Finance Act, LSA-R.S. 6:951 et seq.; or c) any insurance product sold by a bank which was engaged as a general insurance agent or broker on January 1, 1984, and continues to be so engaged, when sold by such bank.

Insurance Agent—a person appointed in writing by an insurer to submit applications for a policy of insurance or to negotiate a policy of insurance on its behalf. As used herein, the term shall also include insurance brokers, surplus lines insurance brokers, and insurance solicitors.

Insurer—any domestic, foreign, or alien insurer possessing a certificate of authority to transact any fire, life, or other insurance business in Louisiana.

Location or Located—in reference to a state bank means any place in Louisiana in which the state bank maintains an office at which money is lent, or deposits received, or checks paid.

Office of an ECB—the main office, or any branch, loan production office, or other manned physical facility of the bank or of any subsidiary or affiliate thereof.

Person—a natural or juridical person.

Subsidiary—a corporation owned or controlled by a bank, including but not limited to a service corporation governed by the provisions of LAC 10:I.501-509 [LR 20:677 (6/20/94)].

B. Authority

1. An ECB shall have and possess the rights, powers, privileges and immunities of a national bank or national bank branch domiciled in this state to engage in insurance activities.

2. An ECB may act as agent for any domestic, foreign, or alien insurer approved by the Department to transact business in Louisiana. Unless otherwise approved by the Commissioner, an ECB shall conduct its insurance activities through a separate subsidiary.

3. An ECB may solicit and sell any insurance, may collect premiums on policies issued, and may receive such fees and commissions from the sale of such insurance as may be agreed upon between the bank and the insurer for which the bank is acting as agent.

4. An ECB may engage in the insurance activities covered by this rule directly, through its own officers, directors or employees, or through the officers, directors or employees of its subsidiary, or affiliate.

5. An ECB may also engage in the insurance activities covered by this rule indirectly by contracting with a third party, through officers, directors, or employees of a third party acting on behalf of the bank, or through persons acting as employee of both the ECB and the third party. The agreement between the bank and the third party shall be in writing and approved by the bank's Board of Directors.

6. The persons who act as insurance agents on behalf of the ECB shall operate from an office located within an eligible community as listed on the agents' license applications submitted to the Department. The ECB's insurance agents shall have the same authority to solicit, negotiate, and sell insurance subject to the same restrictions applicable to Louisiana licensed insurance agents in general engaged in the sale of similar kinds of insurance.

C. Licensing

1. An ECB wishing to engage in insurance sales activities, or any third party wishing to engage in insurance sales activities on behalf of the ECB, shall obtain a license from the Department to act as an insurance agent, insurance broker, surplus lines insurance broker or insurance solicitor.

2. The person applying on behalf of the ECB for a license as an insurance agent shall comply with the Department's requirements, including continuing education requirements, applicable to insurance agents in general engaged in the sale of similar kinds of insurance.

3. Insurance agent services shall be provided only by licensed insurance agents. Unlicensed employees of the ECB or its subsidiary may provide clerical assistance in connection with the solicitation, negotiation, and sale of insurance, may collect premiums when so authorized by a licensed agent, and may refer customers to the ECB's licensed insurance agents.

4. As part of his regular examination of the ECB and of its subsidiary, the Commissioner shall determine whether all persons engaged in insurance sales activities as insurance agents have been licensed by the Department. If any person has failed to comply with the Department's non-discriminatory licensing requirements applicable to all insurance agents selling the same kinds of insurance, the Commissioner may institute any enforcement action authorized by the Louisiana Banking Law in addition to referring the violations to the Department, pursuant to the authority of LSA-R.S. 6:103 B(8)(b).

D. Disposition of Income from Sale of Insurance

1. Pursuant to the requirements of LSA-R.S. 22:1113 D., no unlicensed employee, officer, or director of an ECB may receive, directly or indirectly, commissions, brokerage, or other valuable consideration, for services as an insurance agent performed in connection with the sale of insurance authorized herein.

2. Compensation based upon commissions is a common method of selling insurance, and can increase customer awareness of the availability of insurance products offered by the ECB.

3. Compensation programs for ECB personnel engaged in insurance sales activities must be structured in such a way as to assist the customer in making informed product selections.

4. As compensation for the use of its premises, personnel, or good will, an ECB may contract with its officers, directors, or employees, or with the officers, directors or employees of its subsidiary or affiliate, or with the officers, directors, or employees of a third party acting on behalf of the bank, or with such persons acting as employee of both the ECB and the third party, acting as insurance agent on behalf of the ECB, to receive income payable from the sale of insurance. Compensation conforming to the provisions of this rule, or satisfying requirements of the Office of the Comptroller of the Currency if the ECB were a national bank, shall not constitute prohibited commission splitting or an unlawful rebate.

E. Consumer Protection

1. The way in which insurance products are sold within a bank can assist customers to distinguish between deposits that are insured or are obligations of the bank and uninsured products offered by the bank or a third party.

2. The Commissioner shall review measures taken by an ECB with regard to the setting and circumstances of its insurance sales activities designed to minimize potential customer confusion over the nature of the product sold. Sales of insurance should take place in a location that is distinct from the teller window setting in which retail deposits are taken.

3. If insurance is required in order to obtain a loan, or loan approval is contingent on the customer obtaining acceptable insurance, when the bank first informs the customer that required insurance is available from the ECB, it should also inform the customer that he need not purchase insurance from the ECB, the insurance is available through other providers, and the customer's choice of another

insurance provider will not affect the bank's credit decision or credit terms in any way.

4.a. At the time a written application for insurance is made, the insurance agent shall obtain a separate written statement, signed by the customer, acknowledging that the customer has received and understands the following disclosures:

- i. The insurance policy is not insured by the FDIC;
- ii. The insurance policy is not a deposit or other obligation of, or guaranteed by, the bank;
- iii. The bank does not guarantee performance by the insurer issuing the policy.

iv. The customer is not required to purchase insurance through the bank, and the customer's choice of another insurance provider will not affect the bank's credit decision or credit terms in any way.

b. These disclosures should be conspicuous and presented in a clear and concise manner.

5. All advertisements, sales literature, and other materials which relate to the marketing of insurance sold through the ECB shall clearly state that the insurance is not insured by a federal agency or guaranteed by the bank, shall indicate whether the insurance agent is employed by the bank or by a third party, and shall indicate that an insurance company, not the bank, is underwriting the insurance product.

6. Any ECB engaging in the insurance agency activities described herein shall establish an orderly process for responding to consumer complaints arising from the sales of insurance. Whether the ECB engages in insurance activities through its own employees, employees of its subsidiary, or those of a third party, the ECB shall maintain a file describing complaints lodged against the ECB, and steps taken by the ECB to resolve the complaints.

7.a. An ECB shall not in any manner extend credit, lease or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement that the customer shall obtain insurance from the bank or its subsidiary.

b. The following activities shall not violate this anti-tying provision:

i. A bank may cross-sell or cross-market products or services. A bank cross-sells when it informs a customer that insurance is available from the bank, its subsidiary, or through a third party.

ii. A bank which requires a customer to obtain insurance coverage in connection with a loan or other extension of credit may provide the insurance if the bank discloses in writing that coverage may be obtained from a person of the customer's choice, and the transaction is not conditioned upon the customer obtaining insurance from the bank.

8. An ECB shall establish compliance programs to promote compliance with this provision.

9. Bank activities which conform to the requirements of 12 U.S.C.A. §1972 (1), or 12 C.F.R. §225.7, as these provisions from time to time may be amended or revised, shall be deemed to satisfy the requirements of this Subsection, and any state statutes applicable to this aspect of bank insurance sales.

F. Disclosure of Financial Records. In connection with the insurance sales activities authorized herein, an ECB may disclose a customer's records to any person as authorized in LSA-R.S. 6:333.

G. Enforcement by Commissioner

1. The Commissioner is committed to ensuring that ECBs conduct their insurance sales activities in a safe and sound manner. Adequate consumer protections, qualified employees, and responsible sales practices are essential for this result.

2. The Commissioner may enforce compliance with the provisions of this rule by using any regulatory, investigative, examination or enforcement authority given the Louisiana Office of Financial Institutions by the provisions of the Louisiana Banking Law, including but not limited to LSA-R.S. 6:121 et seq.

3. The Commissioner and the Department may enter into an inter-departmental compact to establish procedures for the expeditious and economical disposition of their respective regulatory responsibilities. In furtherance thereof:

a. pursuant to the authority of LSA-R.S. 6:103 B(8)(b), if the Commissioner should have reason to believe that any insurer is not acting in conformance with the Louisiana Insurance Code or the Louisiana Banking Law, he shall refer the matter to the Department. The Department's examination and the cost therefor shall be governed by the provisions of the Louisiana Insurance Code.

b. pursuant to the authority of LSA-R.S. 22:1305 A., if the Department should have reason to believe that any insurance agent of a bank is not acting in conformance with the Louisiana Banking Law or the Louisiana Insurance Code, the Department shall refer the matter to the Commissioner. The Commissioner's examination and the cost therefor shall be governed by the provisions of the Louisiana Banking Law.

4. Nothing contained herein shall limit the authority or responsibility of the Department to regulate insurance in conformity with all applicable laws and regulations.

H. Continuing Parity

1. The provisions of this rule are to be construed liberally in order to promote and maintain competitive equality between state and national banks, preserve the dual banking system, and serve the public interest in the business of banking.

2. In addition to the authority conferred by this rule, an ECB shall have and possess, and may exercise, such rights, powers, privileges, and immunities of a national bank or national bank branch engaged in insurance sales activities in the state pursuant to the authority of 12 U.S.C.A. §92 as interpreted and applied by the Comptroller of the Currency, upon complying with the requirements of LSA-R.S. 6:242 C(1). Upon receipt of the ECB's notice of intent, the Commissioner shall transmit a copy thereof to the Department.

I. Insurance Sales Exempted from Rule

1. The provisions of this Part shall be subject to the provisions of LSA-R.S. 6:242 A(6) relative to banks which were engaged as general insurance agents or brokers on January 1, 1984.

2. The provisions of this Part shall not apply to any insurance sales activities in which banks were authorized to engage prior to the adoption of this rule, including, but not limited to, the sale of credit insurance and the sale of annuities.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 6:121 and 6:242 A(6)(a).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 23:

Written comments regarding this rule shall be submitted no later than November 20, 1996 to Larry L. Murray, Commissioner, Office of Financial Institutions, Box 94095, Baton Rouge, Louisiana 70804-9095, or by delivery to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809.

Larry L. Murray
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: State Bank Insurance Sales Activities

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation costs associated with this proposed rule will be minimal, consisting only of publication costs in the *Louisiana Register*. It is anticipated that this agency will continue to utilize existing personnel and equipment in the implementation process, and the agency estimates that there will be no additional requirements for new equipment, employee costs, or professional services. Review for compliance with the proposed rule will be conducted by this agency during the normal regulatory examination process, in accordance with LSA-R.S. 6:123 A(1). Further, based upon conversations between this Office and the Louisiana Department of Insurance ("Department"), we are informed that the Department likewise anticipates minimal, if any, additional costs or expenses associated with the implementation of this proposed rule. The Department expects to utilize currently existing personnel and equipment to monitor for compliance with the provisions of this proposed rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no effect on revenue collections of either state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

The only estimated costs anticipated for persons or nongovernmental groups directly affected by this proposed rule will be those associated with personnel, equipment, supplies, and advertisement necessary to establish and maintain a department within eligible community banks, or establishment of a subsidiary for the purpose of acting as agent for the sale of insurance products. An economic benefit will result from the income generated through commissions received from the sale of these products. At present, there are 150 Louisiana state-chartered banking institutions, all of which will be able to sell insurance products as agent upon compliance with this Rule. We initially anticipate that approximately 15 of these banks will obtain the necessary licensure to sell such insurance products in the near future. We further anticipate that approximately 45 of

these institutions will eventually obtain licensure to sell insurance as agents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will allow eligible community banks parity with national banks in Louisiana which are now able to act as agents for the sale of all forms of insurance. This will benefit consumers by providing increased competition and availability to consumers.

Larry L. Murray
Commissioner
9610#060

H. Gordon Monk
Chief Coordinator to the
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Charter Schools Demonstration Program

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, a revision to Bulletin 741, Louisiana Handbook for School Administrators, Charter Schools Demonstration Program.

1.161.01 Approval shall be obtained from the State Board of Elementary and Secondary Education for the conversion of an approved, existing public school to a BESE-approved charter school. Such approval shall be consistent with the provisions of R.S. 17:3971, which provides for the establishment of the Louisiana Charter Schools Demonstration Sites Program.

2.161.01 Approval shall be obtained from the State Board of Elementary and Secondary Education (SBESE), prior to the conversion of an existing public school.

The following are the general Louisiana Department of Education procedures which shall be adhered to in order to be considered for conversion to a charter school.

Submit a public school charter conversion application to the State Superintendent of Education at least 30 calendar days prior to the next available State Board of Elementary and Secondary Education meeting.

Only applications for a subsequent school year shall be considered. (A school session begins with the fall term of the next session.)

The application will be reviewed by designated SDE staff for completeness and an appropriate recommendation.

All outstanding issues or questions must be answered and information requests completed prior to presentation to the State Board.

Any changes to an application submitted by the system must be approved by an authorized representative of the submitting agency prior to submission to the State Superintendent.

A staff interview with the designated project contact will be conducted prior to any recommendations to the State Superintendent.

The system shall designate a specific individual or individuals who must be present at any Committee or State Board meeting to respond to any questions or requests for information presented by the State Board Committee which will review the application.

Consistent with the provisions of R.S. 17:3972, the decision to permit a public school to convert to a charter school is reserved to the State Board of Elementary and Secondary Education.

Review and approval of the request shall be consistent with published, official meeting policies, procedures, and protocols of the State Board of Elementary and Secondary Education.

State Board decisions on all charter school conversion applications will be announced in the official monthly minutes of the State Board of Elementary and Secondary Education.

Steps taken to review the statutory requirements of the charter school law.

General description of the school's mission.

Profile of the sponsoring group.

School demographics (percent of at-risk students; racial and gender distribution).

Procedures taken to inform affected students, their parents, faculty, staff, administrators, and interested citizens (Special attention should be given to due public notice and open public meetings. Attach copies of appropriate notices and other relevant information).

Agreement for meeting, legal, fiscal, accounting/business management, and tort liability requirements.

Structure, organization, purpose, and mission of the school.

Staffing arrangements for the school.

Curricular program for the school.

Instructional program for the school.

Assessment procedures for the school.

Arrangements for maintaining contact with parents.

Specific criteria established to set accountability standards. (Note: The criterion must be those specific measures which will be used to evaluate the performance of the school and to judge whether the charter will be continued. Therefore, it is critical that these accountability standards be carefully considered and fully understood by all parties to the charter).

Key individuals involved with charter negotiations.

Process through which a school governance council will be selected.

Specific measures, provision, and agreement made to insure relative autonomy for the charter school.

Structure and authority of the local governance council including measures for arbitrating disputes over interpretations of the charter.

Authorization to operate the school within any existing court desegregation orders, consent decrees, or other legal mandates from state and/or federal courts.

AUTHORITY NOTE: Promulgated in accordance with Act 192 of 1995 R.S. 17:3971

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education: LR 22:

Interested persons may submit comments on the Charter School Demonstration Program until 4:30 p.m. December 9, 1996 to: Jeannie Stokes, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Charter Schools Demonstration Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The following is an estimate of the costs to the state and local governmental units for the establishment of a charter school program. The estimate is based on the following assumptions:

16 charter schools established in Louisiana (2/charter school pilot sites) with an enrollment of 100 students in each school receiving the state average allocation of \$4,409.

16 x 100 x \$4,409 = \$7,054,400

State Share @ 53 percent = \$3,738,832

Local Share @ 35 percent = \$2,469,040

Federal Share @ 12 percent = \$846,528

State and local governments will also spend an additional \$440,000 in fiscal year 1996/97 from a federal grant for charter schools. Of these funds, all but 5 percent (\$22,000) must be sent to the local systems to support charter school groups seeking to design and/or implement charter schools. The Department of Education will expend the remaining \$22,000 on behalf of the charter school initiative.

The SBESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$160. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an impact on revenue collections of state and local governmental units, since some funds would be received from a federal grant to the state of Louisiana. The total amount of the grant is \$1,216,000 (\$336,000 95/96; \$440,000 96/97; and \$440,000 97/98). Of these funds, all but 5 percent must be sent to the local systems to support charter school groups seeking to design and/or implement charter schools. The Department of Education will expend the remaining 5 percent on behalf of the charter school initiative.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There would be some undetermined economic benefits to local school systems operating converted charter schools. Public schools converted to charter schools would be operated in a manner intended to achieve higher student achievement within existing funding sources. Since the theory behind charter schools is that more effective and efficient education can be delivered under this system, there should be some economic benefit to the state and local systems. That cost benefit cannot yet be accurately calculated or forecasted until after a substantial portion of the pilot is completed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is expected that converted charter schools will have a competitive impact on existing public and nonpublic schools by driving down costs and increasing student achievement. However, there is no current data either within Louisiana or in other states that can provide a rational basis for calculating the economic efficiency of charter schools.

Marlyn Langley
Deputy Superintendent
Management and Finance
9610#071

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Minimum Foundation Program (LAC 28:I.1709)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement, the following revision to the Minimum Foundation Program Student Membership Definition.

Title 28

EDUCATION

Part I: Board of Elementary and Secondary Education

Chapter 17. Finance and Property

§1709. Budgets

A. - H. ...

I. MFP: Equalization Grant

1. Each parish and city school system shall receive an allocation from the annual equalization grant in 12 payments. These payments shall be incorporated into monthly amounts received from the state for implementation of the Minimum Foundation Program.

2. Student Membership: For state reporting for public education for the purpose of establishing the base student count for state funding, shall adhere to the following:

a. All students included for membership in school shall be identified with the following minimum required identification elements: state identification number, full legal name, date of birth, sex, race, district and school code, entry date, and grade placement.

b. For establishing the base student membership count for state funding the following guidelines will be adhered to:

i. No student will be counted more than one time. Students attending more than one school will be counted in membership only one time.

ii. All students, including special education students and students in ungraded class settings, will be included in the base student membership count who meet the following criteria:

(a). have registered or pre-registered on or before October 1*,

(b). are actively attending school (All current state laws and B.E.S.E. policies concerning attendance should be carefully followed. Appropriate documentation [either written or computer documents] such as dates of absences, letters to parents, notification to Child Welfare and Attendance Officers should be placed in individual permanent records for any students who may have absences which raise questions about the student's active attendance.),

(c). and/or have not officially exited from school (Students are considered to have officially exited if a notification of transfer has been provided by the student's parent/legal guardian or received from another school.).

iii. Students who are in BESE approved alternative programs (schools), will be included in the base student count for membership.

iv. Students who reside in Louisiana, attend school in another state, and are supported by Louisiana funding will be included in the base student count for membership.

v. All special education preschool (ages 3-5) students will be included in the base student count for membership.

vi. All special education infant (ages birth-2) students for whom the district provides one or more of the sixteen identified services shall be included in the base student count for membership.

vii. Students in grades 13 and 14 in Bossier Parish as cited in R.S. 17:2050 will be included in the base student count for membership.

viii. Regular pre-kindergarten (four-year-old program) students will NOT be included in the base student count for membership.

ix. Private school students receiving services through the public school system will NOT be included in the base student membership.

*If October 1 falls on a Saturday, report membership on September 30. If October 1 falls on a Sunday, report membership on October 2.

AUTHORITY NOTE: Promulgated in accordance with R.S.28:1.1709.

Interested persons may submit comments on the proposed policy until 4:30 p.m., December 9, 1996 to: Jeannie Stokes, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: MFP Student Membership Definition**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no cost of implementation of this change to either the local school districts or the Department.

BESE estimated cost for printing this policy change and the first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$80. Funds are available.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy has been in effect since 1994. There will be no effect on revenue collections of the local school districts unless the original policy has not been implemented and/or followed.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs and/or economic benefits to directly affect persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9610#070

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division**

**Nonattainment New Source Review Procedures
(LAC 33:III.504) (AQ146)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.504 (AQ146).

The Department is adopting a provision in the 1990 Clean Air Act Amendments which provides for a special rule for modifications of sources emitting 100 tons or more. Affected sources are any major stationary source of volatile organic compounds located in an area which emits, or has the potential to emit, 100 tons or more of volatile organic compounds (VOCs) per year. Whenever there is any change in emissions of VOCs from any discrete operation, unit, or other pollutant-emitting activity at the source, such increase shall be considered a modification for purposes of Section 172(c)(5) and Section 173(a). This rule would allow the owner or operator of the source to offset the increase by a greater reduction in emissions of VOCs from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1, in lieu of the requirements of Section 173(a)(2) concerning the lowest achievable emission rate (LAER). This revision is in accordance with Section 182(c)(8) of the 1990 Clean Air Act Amendments.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

* * *

[See Prior Text in A-D.2]

3. Notwithstanding Subsection D.2 of this Section, in the case of any major stationary source that emits or has the potential to emit 100 tons per year or more of VOC and is located in an area classified as serious, if the owner or operator of the source elects to offset the emissions increase by a reduction in emissions of VOC from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1, then the requirements for LAER shall not apply.

4. For any new major stationary source or major modification in accordance with this Section, it shall be assured that the total tonnage of the emissions increase that would result from the proposed construction or modification shall be offset by an equal or greater reduction as applicable, in the actual emissions of the regulated pollutant from the same or other sources in accordance with Subsection F.9 of this Section. A higher level of offset reduction may be required in order to demonstrate that a net air quality benefit will occur.

5. Emission offsets shall provide net air quality benefit, in accordance with offset ratios listed in Table 1, in the area where the national ambient air quality standard for that pollutant is violated.

6. The proposed major stationary source or major modification will meet all applicable emission requirements in the Louisiana State Implementation Plan (SIP), any applicable new source performance standard in 40 CFR part 60, and any national emission standard for hazardous air pollutants in 40 CFR part 61 or part 63.

7. As a condition for issuing a permit to construct a major stationary source or major modification in a nonattainment area, the public record must contain an analysis, provided by the applicant, of alternate sites, sizes, production processes, and environmental control techniques and demonstrate that the benefits of locating the source in a nonattainment area significantly outweigh the environmental and social costs imposed.

8. The administrative authority shall allow a source to offset, by alternative or innovative means, emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions:

a. Any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on the date of enactment of this Subsection.

b. The source demonstrates to the satisfaction of the administrative authority that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offsets are not available to the source.

c. The source has obtained a written finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration, or other appropriate federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national security.

d. The source will comply with an alternative measure, imposed by the administrative authority, designed to offset any emission increases beyond permitted levels not directly offset by the source. In lieu of imposing any alternative offset measures, the administrative authority may impose an emissions fee to be paid to such authority of a state which shall be an amount no greater than 1.5 times the average cost of stationary source control measures adopted in that area during the previous three years. The administrative authority shall utilize the fees in a manner that maximizes the emission reductions in that area.

* * *

[See Prior Text in E-F.8]

9. Emission offsets shall be obtained from the same source in the case of internal offsets provided in accordance with Subsection D.3 of this Section. In all other cases emission offsets shall be obtained from the same source or other sources in the same nonattainment area, except that such emission reductions may be obtained from a source in another nonattainment area if:

* * *

[See Prior Text in F.9.a-G. Visibility Impairment]

Table 1 Major Stationary Source/Major Modification Emission Thresholds			
POLLUTANT	MAJOR STATIONARY SOURCE Threshold Values (tons/year)	MAJOR MODIFICATION Significant Net Increase (tons/year)	OFFSET RATIO Minimum
OZONE VOC ¹		Trigger Values	
Marginal ¹	100	40 (40) ²	1.10 to 1
Moderate	100	40 (40) ²	1.15 to 1
Serious	50	25 ³ (5) ⁴	1.20 to 1 w/LAER or
Severe	25	25 ³ (5) ⁴	1.30 to 1 internal w/o LAER
			1.30 to 1
CO			
Moderate	100	100	>1.00 to 1
Serious	50	50	>1.00 to 1
SO ₂	100	40	>1.00 to 1
PM ₁₀			
Moderate	100	15	>1.00 to 1
Serious	70	15	>1.00 to 1
Lead	100	0.6	>1.00 to 1

¹ For those parishes which are designated incomplete data or transitional nonattainment for ozone, the new source review rules for a marginal classification apply.

² Consideration of the net emissions increase will be triggered for any project which would increase emissions by 40 tons or more per year, without regard to any project decreases.

³ For serious and severe ozone nonattainment areas, the increase in emissions of volatile organic compounds resulting from any physical change or change in the method of operation of a stationary source shall be considered significant for purposes of determining the applicability of permit requirements, if the net emissions increase from the source equals or exceeds 25 tons.

⁴ Consideration of the net emissions increase will be triggered for any project which would increase volatile organic compound emissions by five tons or more per year, without regard to any project decreases, or for any

project which would result in a 25 ton or more per year cumulative increase in emissions after November 15, 1992, without regard to project decreases.

VOC = volatile organic compounds

CO = carbon monoxide

SO₂ = sulfur dioxide

PM₁₀ = particulate matter of less than 10 microns in diameter

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:

A public hearing will be held on November 25, 1996, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ146. Such comments should be submitted no later than December 2, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70810 or to FAX number (504) 765-0486.

Gus Von Bodungen
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nonattainment New Source Review
Procedures**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated implementation cost associated with this rule revision.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated effect on revenue collections of state or local governmental units. Permit fees are charged at the time a permit is submitted. The "contents" of a permit does not determine fees.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

Current regulations may make it cost prohibitive for some sources in serious ozone nonattainment areas to respond to market opportunities. This rule revision would allow an option of providing decreases in emissions elsewhere at the source, where they may be obtained in a more cost effective manner.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

This revision would allow major sources in the serious ozone nonattainment areas to respond to market opportunities, allowing those sources to remain competitive with sources in

ozone attainment areas while achieving larger emission reductions at a more cost effective rate.

J. Dale Givens
Secretary
9610#062

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary**

Rulemaking Petitions

(LAC 33:I.Chapter 9; V.105 and 2515; XV.112)(OS013)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary gives notice that rulemaking procedures have been initiated to amend the Department of Environmental Quality regulations, LAC 33:I.Chapter 9, V.105 and 2515, and XV.112 (OS013).

This proposed rule will standardize and consolidate division-specific procedures into one regulation, which is applicable Department-wide. This regulation not only clarifies the purpose of and required portions in a petition for rulemaking, but ensures opportunities for public comment in both situations wherein a petition is granted or denied.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

**ENVIRONMENTAL QUALITY
Part I. Office of the Secretary**

**Subpart 1. Departmental Administrative Procedures
Chapter 9. Petition for Rulemaking**

§901. Scope

In general, rulemaking to adopt, amend, or rescind any regulation may be initiated by any division as its own option, upon the recommendation of another agency of the state of Louisiana, or at the petition of any interested person. This Chapter addresses general requirements for petitions requesting rulemaking. In all cases, petitions for rulemaking shall not:

1. exceed the authority of the division or administrative authority;
2. contravene any other regulation of the division or agency or other state or federal regulation; or
3. contravene any federal grant or federal program authorization requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§902. Rescission

Section 2.13 of the Rules of Procedure of the Louisiana Environmental Control Commission dated July 22, 1980, and effective August 20, 1980, is hereby rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§903. Definitions

Administrative Authority—the Secretary of the Department of Environmental Quality or his designee.

Department—the Department of Environmental Quality as created by R.S. 30:2001 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§904. Content of a Rulemaking Petition

Any interested person may petition the administrative authority in writing to issue, amend, or rescind any regulation.

A. The petition shall be addressed to the Assistant Secretary of the specific office that oversees the regulation.

B. The petition shall be submitted by certified mail.

C. The petition shall include:

1. the petitioner's name and address;
2. the petitioner's interest in the proposed action;
3. the basis for the request;
4. the substance or specific text of any proposed regulation or amendment or a description of the regulation, the rescission, or the amendment that is desired; and
5. any other information that justifies the proposed action.

D. The petition shall address any additional requirements specific to the requests illustrated below:

1. for petitions seeking to exclude a hazardous waste produced at a particular facility, the person shall comply with LAC 33:V.105.M;

2. for petitions seeking approval of alternate equivalent testing or analytical methods, the person shall comply with LAC 33:V.105.I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

§905. Processing a Rulemaking Petition

A. Upon receipt, the petition for rulemaking shall be reviewed for completeness. If found complete, the petition shall be processed in accordance with this Section.

B. *Informal Fact-finding Public Hearing.* Upon the written request of any interested person, the administrative authority may, at its discretion, hold an informal public hearing to consider oral comments on the petition. A person requesting a hearing must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The administrative authority may in any case decide on its own motion to hold an informal public hearing.

1. The administrative authority shall publish a notice announcing the fact-finding hearing. The notice shall:

a. be published in a major newspaper of general circulation within the area affected by the petition for rulemaking and in the official journal of the state;

b. be published within seven to 14 days preceding the scheduled fact-finding hearing; and

c. contain the time, date, and place and the petitioner's stated basis for the request as found in the original petition for rulemaking.

2. After the conclusion of a fact-finding hearing, the administrative authority shall evaluate the comments presented. The person conducting the hearing shall prepare a report of the hearing and shall file the report in the record of the hearing (as provided in R.S. 30:2016(F)).

C. Within 90 days of receipt of the petition for rulemaking, the Assistant Secretary shall provide the petitioner with a preliminary written decision regarding rulemaking.

1. If the Assistant Secretary decides to proceed with rulemaking, the standard procedures for processing a proposed regulation shall be followed (as provided for in R.S. 49:950 et seq., Administrative Procedure Act). In addition, a notice of proposed rulemaking shall be published in a major newspaper of general circulation within the area affected by the petition for rulemaking, and in the official journal of the state.

2. If the Assistant Secretary decides not to proceed with rulemaking, a tentative decision to deny the petition shall be published in a major newspaper of general circulation within the area affected by the petition for rulemaking, in the official journal of the state, and in the *Louisiana Register*.

3. If the impact of the rulemaking petition decision (issuance or denial) is statewide, newspaper notice requirements may be satisfied by publication in only the official state journal.

D. The final decision on the petition, either adoption of a rule or final decision to deny the petition, shall be published in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste", appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in LAC 33:V.105.

* * *

[See Prior Text in A-G]

H. General Procedures to Petition the Administrative Authority. The procedure that must be followed to petition for rulemaking can be found in LAC 33:I.Chapter 9.

I. Petitions for Equivalent Testing or Analytical Methods

1. Any person seeking approval of equivalent testing or analytical method may petition for a regulatory amendment under LAC 33:V.105.I and LAC 33:I.Chapter 9. To be

successful, the petitioner must demonstrate to the satisfaction of the administrative authority that the proposed method is equal to or superior to the corresponding method prescribed in Method 1311, in 40 CFR part 268 Appendix 1, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

2. In addition to the information required by LAC 33:I.Chapter 9, each petition must include:

a. a full description of the proposed method, including all procedural steps and equipment used in the method;

b. a description of the types of wastes or waste matrices for which the proposed method may be used;

c. comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication Number SW-846), latest edition, as amended;

d. an assessment of any factors which may interfere with or limit the use of the proposed method; and

e. a description of the quality control procedures necessary to ensure the sensitivity, accuracy, and precision of the proposed method.

3. After receiving a petition for an equivalent method, the administrative authority may request any additional information on the proposed method which it may reasonably require to evaluate the method.

[See Prior Text in J - L.2]

M. Petitions to Exclude a Waste Produced at a Particular Facility

1. Any person seeking to exclude a waste at a particular generating facility from the lists in LAC 33:V.4901 may petition for a regulatory amendment under this Subsection and LAC 33:I.Chapter 9. To be successful:

[See Prior Text in M.1.a-4.d]

5. The procedures in LAC 33:V.105.M and LAC 33:I.Chapter 9 may also be used to petition the administrative authority for a regulatory amendment to exclude from LAC 33:V.109.Hazardous Waste.2.c or 4, a waste which is described in LAC 33:V.109.Hazardous Waste.2.c or 4 and is either a waste listed in LAC 33:V.4901, or is derived from a waste listed in LAC 33:V.4901. This exclusion may only be issued for a particular generating, storage, treatment, or disposal facility. The petitioner must make the same demonstration as required by LAC 33:V.105.M.1. Where the waste is a mixture of solid waste and one or more listed hazardous wastes or is derived from one or more hazardous wastes, his demonstration must be made with respect to the waste mixture as a whole. Analyses must be conducted for not only those constituents for which the listed waste contained in the mixture was listed as hazardous, but also for factors (including additional constituents) that could cause the waste mixture to be a hazardous waste. A waste which is so excluded may still be a hazardous waste by LAC 33:V.4903.

[See Prior Text in M.6]

7. Each petition must include, in addition to the information required by LAC 33:I.Chapter 9:

[See Prior Text in M.7.a-10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of the Secretary, LR 23:

Chapter 25. Landfills

§2515. Special Requirements for Bulk and Containerized Liquids

[See Prior Text in A - E.2]

F. Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: materials listed or described in LAC 33:V.2515.F; materials that pass one of the tests in LAC 33:V.2515.F.2; or materials that are determined by the administrative authority to be nonbiodegradable through the petition process in LAC 33:I.Chapter 9.

[See Prior Text in F.1-2.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of the Secretary, LR 23:

Part XV. Radiation Protection

Chapter 1. General Provisions

§112. Rulemaking

The procedure that must be followed to petition for rulemaking can be found in LAC 33:I.Chapter 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of the Secretary, LR 23:

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS013. Such comments should be submitted no later than December 2, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70810 or to FAX (504) 765-0486.

A public hearing will be held on November 25, 1996, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals

with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given above or telephone (504)765-0399.

Herman Robinson
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Rulemaking Petitions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no anticipated costs/savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no anticipated effects on any revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no significant anticipated costs or benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no anticipated effects on competition or employment.

Herman Robinson
Assistant Secretary
9610#063

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of the Commissioner**

Conduct of Hearing (LAC 34:I.3103)

The Division of Administration, Office of the Commissioner, in accordance with R.S. 49:950 et seq., gives notice that in order to be in conformity with law intends to amend and reenact the following rule governing the conduct of hearings.

Acts 1995, Number 739 enacted LSA-R.S. 49:991, et seq., and created the Division of Administrative Law within the Department of State Civil Service. Pursuant to the act, more specifically LSA-R.S. 49:992(E), the Division of Administrative Law was given administrative jurisdiction of all "adjudications", as defined in the Administrative Procedure Act. This transfer of jurisdiction in procurement matters from the Office of State Purchasing to the Division of Administrative Law renders LAC 34:I.Chapter 31 meaningless in its current form. This Chapter of the LAC contained the Conduct of Hearing Rules used by the Office of State Purchasing prior to the October 1, 1996 transfer of adjudications to the Division of Administrative Law. The

proposed changes to LAC 34:I.3103 are designed to accommodate the change in law by removing the applicability of the Conduct of Hearing Rules to the Office of State Purchasing.

The full text of the proposed amendment may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may submit written comments within 20 days of publication to: Edgar C. Jordan, Assistant Commissioner of Administration, Box 94095, Baton Rouge, LA 70804-9095.

Edgar C. Jordan
Assistant Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Conduct of Hearing**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to any state or local government.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Parties desiring to resolve certain disputes arising under the Louisiana Procurement Code will have to pay attorney fees and costs of litigation.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition or employment.

Edgar C. Jordan
Assistant Commissioner
9610#028

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Patient's Compensation Fund Oversight Board**

General Provisions; Fund Enrollment; Surcharges; and Scope of Coverage (LAC 37:III.Chapters 1, 5, 7, and 9)

The Patient's Compensation Fund Oversight Board, under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., advertises its intent to amend LAC 37:III, as follows, which provides several technical corrections to the current rules, defines and governs self-insurance coverage as a method of qualifying for enrollment with the Fund, and clarifies the intent of several of the current rules.

Title 37
INSURANCE

Part III. Patient's Compensation Fund Oversight Board
Chapter 1. General Provisions
§109. General Definitions

A. As used in these rules, the following terms shall have the meanings specified:

1. Terminology Definitions

Act—the Louisiana Medical Malpractice Act, Act 1975, Number 817, as amended, R.S. 40:1299.41-1299.48.

Board—the Louisiana Patient's Compensation Fund Oversight Board established pursuant to R.S. 40:1299.44 (D).

Executive Director—the Executive Director of the Louisiana Patient's Compensation Fund Oversight Board, as designated, appointed and delegated authority pursuant to §303.

2. Coverage Definitions

Claims-Made Coverage—A form of professional liability coverage which provides coverage for a claim arising from an incident which both occurred and was reported during the effective period of qualification with the fund. Provider must meet all requirements for continued qualification.

Extended Reporting Endorsement—Tail coverage.

Occurrence Coverage—A form of professional liability coverage which provides coverage for a claim arising from an incident which occurred during the effective period of qualification regardless of whether the provider was actively enrolled on the date on which the claim was reported. Provider must meet all requirements for continued qualification.

Self-Insured Coverage—A form of professional liability coverage which provides coverage for a claim arising from an incident which occurred during the effective period of qualification regardless of whether the provider was actively enrolled on the date on which the claim was reported. Provider must meet all requirements for continued qualification.

Tail Coverage—An endorsement which, when purchased by a provider at the end of his claims-made coverage period, provides coverage for a claim arising from an incident which occurred during the effective period of enrollment but was reported following the termination of active enrollment. Provider must meet all requirements for continued qualification.

3. Provider Definitions

Enrolled Provider—An enrolled provider is one who has met the requirements for qualification in the Louisiana Patient's Compensation Fund (including the financial responsibility requirements of R.S. 40:1299.42) who also:

i. is currently actively involved in medical practice and/or providing medical services in Louisiana (i.e., not retired or now practicing in another state); and

ii. has paid the appropriate surcharge for such practice to the LAPCF for their current policy year.

Qualified Provider—Any provider who has met the statutory requirements for malpractice coverage with the Louisiana Patient's Compensation Fund. Qualified providers

may be currently either active or inactive in the practice of medicine in Louisiana, depending on the dates for which they are qualified. So long as the financial responsibility requirements for continued qualification are met, a provider need not be currently enrolled in the LAPCF.

4. General Definitions

Accept or Collect—With reference to the acceptance or collection of payments of applicable surcharges for enrollment with the Fund, such surcharges will be deemed to have been "accepted" or "collected" by the commercial professional health care liability insurance companies and approved self-insurance trust funds when the first agent, employee, representative, or other person acting or purporting to act on behalf of the insurer or the trust fund who has the responsibility to process such surcharges accepts delivery of same.

Disability—For purposes of determining eligibility for the provisions of §715.D of these rules, the inability to continue the practice of medicine due to a permanent illness, injury or physical impairment. However, for purposes of consideration for a waiver under the provisions of §715.C.3 of these rules, *disability* may also include any permanent illness, injury or physical impairment which prevents a provider from continuing the practice of his existing medical specialty, surgical class or risk rating classification as provided in §705 of these rules, whether or not such disability prevents the provider from engaging in the active practice of medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:168 (February 1992), amended LR 23:

Chapter 5. Enrollment With The Fund
§505. Financial Responsibility: Insurance

A. - D. ...

E. The insurance coverage required by this rule to demonstrate the requisite financial responsibility for qualification with the Fund shall be deemed to be continuing without a lapse in coverage by the Fund, provided that the health care provider meets the premium payment conditions of the underlying coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:170 (February 1992), amended LR 21:394 (April 1995), LR 23:

§507. Financial Responsibility: Self-Insurance

A. - D. ...

E. To maintain financial responsibility for continuing enrollment or qualification with the Fund, a health care provider shall at all times maintain the unimpaired principal value of the deposit provided for by this Section at not less than \$125,000. The value of the health care provider's deposit shall be deemed impaired when any portion is seized pursuant to judicial process.

F. - I.1.c ...

I.2. Effective as of the date on which a self-insured health care provider's deposit is withdrawn pursuant to this Section, the health care provider's enrollment and qualification with the fund shall be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:171 (February 1992), amended LR 18:737 (July 1992), LR 23:

§509. Financial Responsibility: Self-Insurance Trusts

A. - L.I.C. ...

L.2. Effective as of this date on which a self-insurance trust's deposit is withdrawn pursuant to this Section, the member's deposit of the trust enrollment and qualification with the Fund shall be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:172 (February 1992), amended LR 18:737 (July 1992), LR 23:

§515. Certification of Enrollment

A. Upon receipt and approval of a completed application (including evidence of financial responsibility pursuant to §505, §507 or §509) and payment of the applicable surcharge by or on behalf of the applicant health care provider, the Executive Director shall issue and deliver to the health care provider a certificate of enrollment with the Fund, identifying the qualified health care provider and specifying the effective date and term of such enrollment and the scope of the fund's coverage for that health care provider.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:173 (February 1992), amended LR 23:

Chapter 7. Surcharges

§711. Payment of Surcharges: Insurers

A. Applicable surcharges for enrollment with the fund shall be collected on behalf of the fund by commercial professional health care liability insurance companies and approved self-insurance trust funds from insured health care providers electing to enroll with the fund. Such surcharges shall be collected by such insurers and funds at the same time and on the same basis as such insurers' collection of premiums from such insureds. Surcharges collected by commercial insurance underwriters and funds on behalf of the fund shall be due and payable and remitted to the fund by commercial insurance underwriters and funds within 45 days from the date on which such surcharges are collected from any insured, whether such surcharges are collected from the providers early, timely or late. Remittance of surcharges to the fund shall be made in such form and accompanied by records in such forms or on such forms as may be prescribed by the Executive Director so as to provide for proper accounting of remitted surcharges and the identity and class of health care providers on whose behalf such surcharges are remitted. Commercial professional health care providers liability insurance companies, commercial insurance underwriters and approved self-insurance trust funds remitting surcharges to the fund shall certify to the fund, at the time or remitting such surcharge to the fund, the date that the surcharges were collected by them from the health care providers. The

payment of surcharges by an approved self-insurance trust that does not collect premiums from insureds will be governed by §713 hereof.

B. ...

C. If the instrument used to pay the surcharge is returned to the Fund by the payor institution and/or payment hereon is denied for any reason, the health care provider shall be notified thereof by the Fund. If the surcharge is not paid in full by certified check, cashier's check, money order or cash equivalent funds received by the Fund within ten calendar days of the provider's receipt of said notice, then the provider's coverage with the Fund shall be terminated as of the end of the previous enrollment period.

D. It is the purpose of this Section that insurance companies remit surcharges collected from their insured providers on behalf of the Fund to the Fund timely. The provisions of this Section are not intended to affect the effective date of Fund coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:176 (February 1992), amended LR 20:432 (April 1994), LR 23:

§713. Payment of Surcharges/Self-Insureds

A. - B. ...

C. If the instrument used to pay the surcharge is returned to the Fund by the payor institution and/or payment hereon is denied for any reason, the health care provider shall be notified thereof by the Fund. If the surcharge is not paid in full by certified check, cashier's check, money order or cash equivalent funds received by the Fund within 10 calendar days of the provider's receipt of said notice, then the provider's coverage with the Fund shall be terminated as of the end of the previous enrollment period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:176 (February 1992), amended LR 20:432 (April 1994), LR 23:

§715. Amount of Surcharges; Form of Coverage; Conversions

A. A health care provider qualified for enrollment by evidence of liability insurance pursuant to §505, or by evidence of participation in an approved self-insurance trust pursuant to §509, shall pay the Fund surcharge amount in the most recently approved rate filing which is applicable to his provider type and which most closely corresponds to the class and form of coverage of said primary liability insurance or self-insurance trust. The form of coverage provided by the fund shall be identical to that provided by the qualifying policy of insurance or self-insurance except where the policy conflicts with applicable law or regulation.

B. A health care provider qualified for enrollment by evidence of self-insurance pursuant to §507 shall pay the Fund surcharge amount in the most recently approved rate filing which is applicable to self-insured coverage and to his provider type. The form of coverage provided by the fund shall be self-insured coverage as defined in §109.A of these rules.

C.1. When a health care provider who had previously purchased claims-made coverage from the Fund elects to purchase occurrence coverage from or discontinue enrollment in the Fund, he shall not have coverage afforded by the Fund for any claims arising from acts or omissions occurring during the Fund's claims-made coverage but asserted after the termination of the claims-made coverage unless he evidences financial responsibility for those claims and pays the surcharge applicable to fund tail coverage for the corresponding claims-made period(s).

2. When a health care provider who had previously purchased claims-made coverage from the Fund elects to purchase self-insured coverage from the Fund, he shall not have coverage afforded for any claims arising from acts or omissions occurring during the Fund's claims-made coverage but asserted after the termination of the claims-made coverage unless he evidences financial responsibility for those claims and pays the surcharge applicable to fund tail coverage for the corresponding claims-made period(s). A self-insured provider may defer payment for the tail coverage until within 30 days of the date on which he terminates his continuous self-insured coverage with the Fund. If the provider elects to defer payment for tail coverage in accordance with this rule, the premium will be determined according to the applicable rates at the time of the termination of coverage.

3. In special circumstances, the Board may at its discretion waive the payment of an additional surcharge and allow tail coverage to a provider without the payment of the applicable premium. Each such case requires an individual written request for relief to the Board, and will be decided on individual circumstances. The Board's criteria for such decisions shall include, but not be limited to:

- a. the reason for such request;
- b. the length and basis of the provider's enrollment with the Fund;
- c. the potential claims liability to the Fund;
- d. the provider's intention to cease or continue to practice in Louisiana; and
- e. the potential effects if the Fund refuses to allow such relief.

D. When a health care provider who had previously purchased claims-made coverage from the Fund permanently retires after ten consecutive years of enrollment, or when an institutional provider and any successors who had previously purchased claims-made coverage from the Fund permanently ceases to do business and/or practice medicine after ten consecutive years of coverage, or when a health care provider who had previously purchased claims-made from the Fund dies or becomes permanently disabled, then the surcharge to the Fund for tail coverage for claims occurring during the existence of the Fund claims-made coverage shall be considered to have been paid. However, continuous coverage through the Fund under this rule shall only apply if the affected provider or institution maintains continuous financial responsibility either through insurance coverage or submission of the security required for self-insurance under §507, including tail coverage, for the primary \$100,000.00 for each claim. Further, this rule shall only apply to the successor of an institutional provider to the extent that the predecessor

business entity was enrolled, and only to the single business entity which had been previously enrolled; this rule shall not apply to other business entities of the successor provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 23:

Chapter 9. Scope of Coverage

§901. Effective Date

A. A health care provider who qualifies for enrollment with the Fund by demonstrating financial responsibility through professional liability insurance pursuant to §505 of these rules, shall be deemed to become and be enrolled with the Fund effective as of the date on which the surcharge payable by or on behalf of such health care provider is timely collected in accordance with §711 hereof and the applicable policies and procedures of the insurer for premium payments. If such surcharge is not timely collected the effective date of enrollment with the Fund shall be the date on which such surcharge with any applicable interest, penalties and attorney's fees, is paid to the fund is collected or accepted by the insurer.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:177 (February 1992), amended LR 23:

§907. Scope of Coverage: Self-Insureds

A. With respect to health care providers qualified to enroll with the Fund by evidence of self-insurance pursuant to §507 hereof, or by evidence of participation in an approved self-insurance trust pursuant to §509, the fund shall be obligated to pay compensation to the extent provided by the Act only with respect to claims arising from an incident which occurred during the effective period of enrollment regardless of whether the provider was actively enrolled on the date on which the claim was reported, so long as the provider continues to meet the financial responsibility requirements of R.S. 40:1299.42 for continued qualification.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:177 (February 1992), amended LR 23:

Interested persons may submit inquiries and written comments on the amended rules until 4:30 p.m., November 20, 1996 to: Suanne Grosskopf, Executive Director, Patient's Compensation Fund Oversight Board, 200 Lafayette Street, Suite 600, Baton Rouge, LA 70801.

The intended action complies with the statutory law administered by the Board, in accordance with the provisions of the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq. The Board has not prepared a preamble regarding these amendments and rules; however, these amendments and the information and data supporting same have been discussed repeatedly in open session at the regular monthly meetings of the Board for a period of approximately two years.

Suanne Grosskopf
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: PCF Oversight Board Rules**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will not result in increased or decreased expenditures to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will have no effect on revenue collections of either state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Implementation of this rule will have no effect on costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Implementation of this rule will have no effect on competition and employment.

Suanne Grosskopf
Executive Director
9610#087

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Radiologic Technology Examiners**

Definitions; Continuing Education; and Education
Accreditation (LAC 46:LXVI.Chapters 9,12 and 13)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Health and Hospitals, Radiologic Technology Board of Examiners (Board), pursuant to the authority vested in the Board by R.S. 37:3207, intends to amend LAC 46:LXVI.Chapters 9, 12 and 13, regarding definitions, requirements for continuing education for licensed radiologic technologists and minimum standards for the accreditation of education programs.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVI. Radiologic Technologists

Chapter 9. General Provisions

§901. Definitions

The following words and terms, when used in this rule shall have the following meanings, unless the text clearly indicates otherwise.

ARRT—the American Registry of Radiologic Technologists.

Board—the Radiologic Technology Board of Examiners created pursuant to R.S. 37:3200-3201.

Department—the Department of Health and Hospitals (DHH).

Ionizing Radiation—commonly known as x-rays or gamma rays, they remove electrons from the atoms of matter lying in their path. (e.g., *ionization*).

JRCERT—Joint Review Committee on Education in Radiologic Technology.

License—a certificate issued by the Board authorizing the licensee to use radioactive materials or equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes in accordance with the provisions of this Chapter.

Licensed Practitioner—a person licensed to practice medicine, dentistry, podiatry, chiropractic, or osteopathy in this state.

Licensed Radiologic Technologists (LRT)—any person licensed pursuant to this Chapter.

Nuclear Medicine Technologist—a person, other than a licensed practitioner, who under the direction and supervision of a licensed practitioner uses radioactive materials on humans for diagnostic or therapeutic purposes upon prescription of a licensed practitioner.

Radiation Therapy Technologist—a person, other than a licensed practitioner, who under the direction and supervision of a licensed practitioner applies radiation to humans for therapeutic purposes upon prescription of a licensed practitioner.

Radiographer—a person, other than a licensed practitioner, who under the direction and supervision of a licensed practitioner applies radiation to humans for diagnostic purposes upon prescription of a licensed practitioner.

Radiologic Technologist—any person who is a radiographer, a radiation therapy technologist, or a nuclear medicine technologist licensed under this Chapter who under the direction and supervision of a licensed practitioner applies radiation to humans upon prescription of a licensed practitioner.

Radiologic Technology—the use of a radioactive substance or equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes upon prescription of a licensed practitioner.

Radiological Physicist—a person who is certified by the American Board of Radiology in radiological physics or one of the subspecialties of radiological physics or who is eligible for such certification.

Radiologist—a physician certified by the American Board of Radiology or the American Osteopathic Board of Radiology, the British Royal College of Radiology, or certified as a radiologist by the Canadian College of Physicians and Surgeons.

Student—any person who is enrolled in and attending a Board-approved educational program or college of radiologic technology who applies radiation to humans while under the supervision of a licensed practitioner or a licensed radiologic technologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 11:872 (September 1985), amended LR 23:

Chapter 12. Continuing Education Requirements for License Renewal

§1201. Definitions

ACR—American College of Radiology.

AHRA—American Healthcare Radiology Administrators.

AMA/CME—American Medical Association/Continuing Medical Education.

ANA—American Nursing Association.

ARDMS—American Registry of Diagnostic Medical Sonographers.

ARRT—American Registry of Radiologic Technologists.

ASRT—American Society of Radiologic Technologists.

Active Status—radiologic technologists who maintain their license by paying an initial or renewal fee and are listed in good standing with the LSRTBE.

Approved Academic Course—a formal course of study offered by an accredited post-secondary educational institution in the biological sciences, physical sciences, radiologic sciences, health and medical sciences, social sciences, communication (verbal and written), mathematics, computers, management or education methodology.

Approved Continuing Education Activity—an educational activity which has received approval through a recognized continuing education evaluation/mechanism. Examples include: LSRT/CE, ASRT/ECE, AMA/CME, ACR/CME, ANA/CE, SDMS/CE and SNM-TS/VOICE. Courses meeting this definition are awarded Category A continuing education credits. Activities meeting the definition of an approved academic course will be awarded credit at the rate of 16 CE credits for each academic semester credit and 12 CE credits for each academic quarter credit. An official transcript showing a grade of "C" or better is required to receive CE credit for an academic course.

1. Other activities that meet the definition of an approved continuing education activity are the approved entry-level exams. Examples are:

- a. ARRT examination in radiography;
- b. ARRT or NMTCB examination in nuclear medicine technology;
- c. ARRT examination in radiation therapy technology;
- d. MDCB examination in dosimetry;
- e. ARDMS examination in diagnostic medical sonography; vascular technology or diagnostic cardiac sonography.

2. The advanced-level examinations considered acceptable continuing education activity are:

- a. ARRT examination in cardiovascular-interventional technology;
- b. ARRT examination in mammography;
- c. ARRT examination in computed tomography;
- d. ARRT examination in magnetic resonance imaging;
- e. other ARRT examinations as developed and implemented.

3. Within their licensing period, technologists who pass an entry-level examination for a discipline in which they are not certified and for which they are eligible, or one of the advanced-level examinations that they have not previously

passed and for which they are eligible, have met the continuing education requirement for that licensing period.

CAMRT—Canadian Association of Medical Radiation Technologists.

CPR—Cardio-Pulmonary Resuscitation. Category A credit will be awarded for valid CPR certification. Credits are awarded on the date of the certification or re-certification. A copy of a valid certification card will serve as documentation. Only one of the following options will be allowed during a biennium.

1. CPR certification in Basic life support will automatically be awarded 3 Category A credits limited to three credits per biennium, or

2. Advanced CPR certification (advanced life support, instructor, instructor trainer) will automatically be awarded six Category A credits limited to six credits per biennium.

Category A Credit—educational activity which qualifies as an approved continuing educational activity as defined in this document.

Category B Credit—educational activities not approved for Category A credits may be eligible to receive Category B credits provided that the activities are pertinent to the radiologic technology fields.

Continuing Education (CE)—educational activities which serve to improve and expand the knowledge and skills underlying professional performance that a radiologic technologist uses to provide services for patients, the public or the medical profession. A contact hour credit is awarded for each 50 to 60 minute educational activity. Educational activities of 30 to 49 minutes of duration will be awarded one-half of a credit.

Directed Reading—reading of recent professional journal articles and self-assessment testing to demonstrate comprehension of the material read. The directed readings must be offered through a post-secondary educational institution or as an approved continuing education activity.

Documentation—proof of participation in a particular educational activity. Documentation must include: dates of attendance; title and content of the activity; number of contact hours for the activity; name of sponsor; signature of the instructor or an authorized representative of the sponsor issuing the documentation; and a reference number if the activity has been approved by a RCEEM.

Educational Activity—a learning activity which is planned, organized, and administered to enhance professional knowledge and skills. These include, but are not limited to, meetings, seminars, workshops, courses programs.

Eligible for Renewal Status—a radiologic technologist who has completed all requirements for the renewal of a Louisiana radiologic technologist license is considered to be eligible for renewal status.

Expired Status—a radiologic technologist who fails to meet the continuing education requirements for renewal prior to or during probational status shall be placed on expired status and their license shall be considered *suspended*. The radiologic technologist shall no longer be considered as holding a valid license in the state of Louisiana.

Inactive Status—classification of license where the LSRTBE waives renewal fees to those licensees who confirm

in writing to the Board that they are not actively employed in the state of Louisiana as radiologic technologists.

Independent Study (only available for Category A Credit)—an educational activity offered by an accredited post-secondary educational institution or a comparable sponsor wherein the participant independently completes the objectives and submits the required assignments for evaluation. Independent study may be delivered through various formats such as directed readings, videotapes, audiotapes, computer-assisted instruction and/or learning methods.

In-Service Education—a planned and organized educational activity provided by an employer in the work setting.

Ionizing Radiation—commonly known as x-rays or gamma rays, they remove electrons from the atoms of matter lying in their path. (e.g., *ionization*).

LSRT—Louisiana Society of Radiologic Technologists.

LSRTBE—Louisiana State Radiologic Technology Board of Examiners.

Licensing—the process of granting a license attesting to the demonstration of qualifications in a profession.

Licensing Term—the LSRTBE issues licenses to radiologic technologists for two-year terms. All renewal licenses are issued on June 1 and expire on May 31 of the second year of its issuance.

MDCB—Medical Dosimetry Certification Board.

NMTCB—Nuclear Medicine Technology Certification Board.

Probational Status—radiologic technologists who apply for the renewal of their Louisiana radiologic technology license but who fail to meet the continuing education renewal requirements will be placed on a probational status. Probation shall not exceed a period of six months beyond the expiration date of a license.

Recognized Continuing Education Evaluation Mechanism (RCEEM)—a mechanism for evaluating the content, quality, and integrity of an educational activity. The evaluation must include review of educational objectives, content selection, faculty qualifications, and educational methods and materials.

Example: RCEEMs include: ASRT/ECE system, AMA Category 1/CME system, ACR/CME system, AHRA/CE system, ANA/CE system, CAMRT/CE system, LSRT/CE system, SDMS/CME, SNM-TS/VOICE system or others as they are granted RCEEM status in the future.

Reinstatement—those radiologic technologists on inactive status or those radiologic technologists who have been placed on expired status may be eligible to become licensed again by applying for reinstatement. Reinstatement and the requirements thereof shall be determined by the Board on an individual basis.

SDMS—Society of Diagnostic Medical Sonographers.

SNM-TS/VOICE—Society of Nuclear Medicine Technologist Section/Verification of Involvement in Continuing Education.

Sponsor—an organization responsible for the content, quality and integrity of the educational activity, which plans, organizes, supports, endorses, subsidizes and/or administers educational activities. Sponsors may be, but are not limited to, state, national, regional and district professional societies, academic institutions, health care agencies, health care

facilities, federal or state government agencies. Sponsors must apply and receive approval from a RCEEM in order to offer Category A credit for activities. Sponsors may also award Category B credits.

Suspension/Suspended—license status whereby the radiologic technologist is not allowed to practice where a license is required by law.

Teleconference—an approved educational activity delivered by electronic means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:178 (February 1995), amended LR 23:

§1205. Continuing Education Requirements

Twenty-four hours of continuing education credits must be earned per licensing term to meet the continuing education requirements. At least 12 of these credits must be from Category A activities. Credits earned in excess of 24 per licensing term may not be carried over into the next licensing term. The continuing education requirement is independent of the number of licenses held by an individual (i.e., a radiologic technologist certified in both radiography and radiation therapy technology needs only 24 credits).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:

§1207. Licensing Term Schedule

Since the licensing term is defined as that period from June 1 of the renewal or issuance of license year, to the second May 31 to occur after that date, the continuing education credits must be earned in the two years prior to the second occurrence of May 31.

Example: radiologic technologists who renew their license May 31, 1995 will be required to meet the continuing education requirements from June 1, 1995 to May 31, 1997 in order to renew their license in 1997. Radiologic technologists who renew their license May 31, 1996 will be required to meet the continuing education requirements in order to renew their license in 1998.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:

§1209. Renewal of License by Examination

A. Radiologic technologists who pass one of the advanced-level examinations or entry-level examinations in a different category within a licensing term are exempt from the continuing education requirement for that licensing term.

B. Subsequent renewal of license will require documentation of 24 hours of active participation in continuing education activities for the following licensing term and every two years thereafter, unless another examination is passed.

Example: A radiographer in-good-standing who has passed the nuclear medicine examination or the radiation therapy examination given in March 1997 does not have to complete the 24 hour continuing education requirement for

the licensing term from June 1, 1995 to May 31, 1997. However, beginning June 1, 1997, the radiologic technologist must document continuing education credits for the licensing term of June 1, 1997 to May 31, 1999.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:

§1211. Biannual Application for License Renewal

An application for the renewal of the license will be mailed to each radiologic technologist whose license to practice radiologic technology will expire that May 31 with the license fee due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:

§1213. Documentation

A licensed radiologic technologist is required to maintain proof of participation in continuing education activities and is required to attest to this participation on the form provided. Said documentation shall be provided by the radiologic technologist to the Louisiana State Radiologic Technology Board of Examiners as part of the renewal process. Failure to provide documentation acceptable to the Louisiana State Radiologic Technology Board of Examiners will result in probational status. The Louisiana State Radiologic Technology Board of Examiners will accept copies of documents. Original documents shall be kept by the radiologic technologist for two years after the end of the licensing term for the purpose of further verification should the Board choose to audit the licensees' submissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:

§1219. Reinstatement of License

A. If a license lapses or is inactive for a period of less than four years and if the person is otherwise eligible for renewal of license, the person must supply evidence of having met the continuing education requirements and pay the designated standard renewal fee and any other associated fees as required by the Board.

B. If a license lapses or is inactive for a period of four or more years and if the person is otherwise eligible for renewal of license, the individual must pass the entry-level examination and pay the designated special reinstatement fee.

C. The following groups of licensees may be exempt from compliance with the continuing education requirement:

1. Louisiana licensees who are unable to fulfill the requirement because of illness or other personal hardship. The number of hours may be modified by the Board on a case-by-case review of supporting documentation, evidence and/or testimony.

2. The Board must receive a timely request for an exemption. Such a request shall be considered timely if submitted to the Board prior to March 31 of the license renewal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:181 (February 1995), amended LR 23:

§1221. Requirements for Sponsors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:181 (February 1995), repealed LR 23:

Chapter 13. Minimum Standards for the Accreditation of Education Programs

§1301. Minimum Standards for the Accreditation of Education Programs

A. Pursuant to R.S. 37:3207(3), the Board adopts as its minimum standards for education the *Essentials and Guidelines of an Accredited Educational Program for the Radiographer, Radiation Therapy Technologist and the Nuclear Medicine Technologists* as adopted by the American College of Radiology, American Medical Association and the American Society of Radiologic Technologists and accredited by the Joint Review Committee on Education in Radiologic Technology, provided that the standards do not conflict with Board policies.

B. The Program Director shall submit evidence of compliance with minimum standards of education for the accreditation of educational programs to the Board upon forms provided by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 11:874 (September 1985), amended LR 23:

Interested persons may submit written comments on this proposed rule to: Richard S. Whitehorn, L.R.T., Executive Director, Radiologic Technology Board of Examiners, 3108 Cleary Avenue, Suite 207, Metairie, LA 70002. Written comments must be submitted to and received by the Board within 30 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Board within 20 days of the date of this notice.

Richard S. Whitehorn, L.R.T.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Continuing Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be some minor costs associated with printing the new rules and distributing them to our licensees and we estimate those cost to be \$670 of which \$420 are printing costs and \$250 for the cost of publication in the *Louisiana Register*. We, like all of the licensing agencies under DHH are not appropriated but instead are self-funded by the licensing fees that we charge. We already do several mailings a year to our licensees and there will be no additional costs to mail the new

rules as we will just include them in a regularly scheduled mailing. We do all of our own type-setting in-house and we anticipate no further costs other than the cost of printing each unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by the Louisiana State Radiologic Technology Board of Examiners or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be minimal added cost to licensees and revenue to the providers of the continuing education programs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Richard S. Whitehorn, L.R.T.
Executive Director
9610#082

Richard W. England
Assistant to the
Legislative Fiscal Officer

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing terminates coverage for the optional eligibility categories, Aid to Families with Dependent Children - Medicaid and Supplemental Security Income - Medicaid, as allowed by Title XIX of the Social Security Act Section 1902(a)(10) and 42 CFR Subpart C Section 435.210.

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, November 26, 1996, at 8:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Aid to Families with Dependent Children and Supplemental
Security Income Medicaid Programs**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act, 42 USCA 1396a et seq. This proposed rule will be adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing has provided coverage for the Aid to Families with Dependent Children - Medicaid Program (AFDC-M), and the Supplemental Security Income - Medicaid (SSI-M) under the Medicaid Program. The AFDC-M and SSI-M Programs include those individuals who would meet categorical eligibility if they were to pursue eligibility for AFDC cash assistance and Supplemental Security Income cash assistance. Coverage for both the AFDC-M and SSI-M eligibility categories is optional under Title XIX of the Social Security Act Section 1902(a)(10) and 42 CFR Subpart C Section 435.210. Therefore a state may choose to include or exclude coverage for these eligibility categories from its Title XIX State Plan. An emergency rule was adopted effective July 1, 1996 terminating these optional programs (*Louisiana Register*, Volume 22, Number 6). The Department is proposing to adopt the following rule in order to maintain the cost savings initiated by emergency rulemaking.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: AFDC-M and SSI-M Medicaid Program
Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule and the corresponding emergency rule on the termination of coverage for AFDC-M and SSI-M optional programs will reduce state costs by approximately \$7,214,836 for SFY 1996-97; \$11,625,857 for SFY 1997-98; and \$12,439,667 for SFY 1998-99. Increased state costs of approximately \$150 for the printing of this proposed rule is included under the reduced costs for the first year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will decrease federal revenue collections by approximately \$31,700,798 for SFY 1997; \$30,014,032 for SFY 1998; and \$32,115,014 for SFY 1999 based on decreased state expenditures.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The enrolled Medicaid providers will experience the decreased expenditures of approximately \$38,915,784 for SFY 1997, \$41,639,889 for SFY 1998, and \$44,554,681 for SFY 1999 as reduced payments for Medicaid services rendered to persons of AFDC-M and SSI-M optional eligibility categories.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9610#092

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Community Care Program—Physician Management Fee

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement to primary care physicians who are enrolled as physician managers in the Community Care Waiver Program to insure that the recipient under their care receive the appropriate hospital and specialty care as well as primary care. These physicians were being reimbursed a \$5 management fee per month per Medicaid recipient enrolled in the Community Care Program. An emergency rule was adopted effective July 1, 1996 to reduce the physician management fee under the Community Care Waiver Program from \$5 to \$2 per recipient per month. The bureau has determined it is now necessary to reimburse physicians \$3 per enrolled Medicaid recipient per month for their management services under the Community Care Waiver Program. The following proposed rule is necessary to maintain the cost savings initiated through the September 1996 Emergency Rule (*Louisiana Register*, Volume 22, Number 9, page 796).

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses physicians \$3 per enrolled Medicaid recipient per month for their management services under the Community Care Waiver Program.

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this rule.

A public hearing will be held on this matter on Tuesday, November 26, 1996 at 1 p.m. in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or

arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Community Care Program—Physician
Management Fee**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule and the corresponding emergency rule on the reimbursement changes for physician management fees under the Community Care Program will reduce state costs by approximately \$161,011 for SFY 1997; \$291,237 for both SFY 1998 and SFY 1999. The projected administrative cost for the printing of this proposed rule is included under the estimated savings for the first year.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will decrease federal revenue collections by approximately \$708,099 for SFY 1997 and \$751,875 for both SFY 1998 and SFY 1999.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The physician providers of the Community Care Program will experience decreased program expenditures of approximately \$869,260 for SFY 1997; \$1,043,112 for SFY 1998 and SFY 1999 as reduced payments for their services provided under the Community Care Program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Thomas D. Collins
Director
9610#090

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

**Hospital Prospective Reimbursement Methodology
Rehabilitation Hospitals**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule in the Medical Assistance Program

as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for certain specialty hospital services including rehabilitation hospitals under specialty hospital peer groups as established by the Hospital Prospective Reimbursement Methodology Rule adopted by reference in the *Louisiana Register*, Volume 20, Number 6, page 668. The bureau has now determined it is necessary to prospectively reimburse rehabilitation hospitals within the peer groups established for non-teaching hospitals in Hospital Prospective Reimbursement Methodology Rule. Nonteaching hospitals are grouped according to the number of staffed beds. Rehabilitation hospitals shall be placed in the appropriate non-teaching hospital peer groups according to the number of staffed rehabilitation beds as of March 31 of the year preceding the fiscal year for which the rates will be in effect. The bureau will continue to apply the criteria contained in the Pre-admission and Certification and Length of Stay Criteria for Inpatient Hospital Services Rule (*Louisiana Register*, Volume 20, Number 6, pages 668-669) according to the treatment needs of the individual patient.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend the Hospital Prospective Reimbursement Methodology Rule (*Louisiana Register*, Volume 20, Number 6, page 668) by prospectively reimbursing rehabilitation hospitals within the peer groups established for nonteaching hospital established in the Hospital Prospective Reimbursement Methodology Rule. The appropriate peer group shall be determined according to the number of staffed rehabilitation beds as of March 31 of the year preceding the state fiscal year for which the rates will be in effect. The bureau continues to apply the criteria contained in the Pre-admission and Certification and Length of Stay Criteria for Inpatient Hospital Services Rule (*Louisiana Register*, Volume 20, Number 6, pages 668-669) according to the treatment needs of the individual patient.

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing will be held on this matter on Tuesday, November 26, 1996 at 1 p.m. in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be

afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Hospital Prospective Reimbursement Methodology—Rehabilitation Hospitals

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule and the corresponding emergency rule revising the Hospital Prospective Reimbursement Methodology rule for the payment of specialty hospital services including rehabilitation hospitals will reduce state costs by approximately \$53,362 for SFY 1997; \$112,820 for SFY 1998 and \$157,948 for SFY 1999. Included in this projected state cost savings is the operating expense of \$150 expected for the promulgation of this proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will decrease federal revenue collections by approximately \$235,118 for SFY 1997, \$291,262 for SFY 1998 and \$407,767 for SFY 1999.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The rehabilitation hospitals providing services will experience reimbursement reductions of approximately \$288,630 for SFY 1997; \$404,082 for SFY 1998 and \$565,715 for their services to Medicaid recipients.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Thomas D. Collins
Director
9610#089

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Medicaid Eligibility Verification Services (MEVS)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule as authorized by R.S. 46:153 and

pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Currently the Department of Health and Hospitals, Bureau of Health Services Financing provides verification of recipient eligibility to enroll providers through bureau staff and its fiscal intermediary in accordance with all applicable federal laws and regulations concerning confidentiality including 42 CFR 431. Federal regulations do not prohibit state Medicaid agencies from allowing private vendors to contract with enrolled providers for delivery of Medicaid eligibility verification services subject to additional regulations. The Department is now proposing to adopt rulemaking which would allow interested private vendors to establish Medicaid eligibility verification services which will be available to any enrolled provider who wishes to subscribe to the service. The Department further proposes to adopt the following provisions to govern the administration of this service.

Proposed Rule

The Bureau of Health Services Financing proposes to adopt the following regulations to govern the participation of private vendors of Medicaid eligibility verification services under the Medicaid Program.

1. Medicaid recipient eligibility verification services are allowed solely for the purpose of assisting enrolled health and medical providers to verify patient eligibility status.

2. The verification of eligibility under the vendor's system is not an assurance of payment by the Department and or/the Department's fiscal agent and that the records of the Department and/or the Department's fiscal agent as to a recipient's eligibility status shall be the final authority.

3. Any private vendor of Medicaid eligibility verification services must become an agent of the state through a contract approved by the Division of Administration and the Health Care Financing Administration and is subject to the following limitations and requirements.

- a. The private vendor:
 - 1) may not bill on behalf of the providers of the Medicaid Program;
 - 2) may provide eligibility information only as a direct result of provider inquiry about a specific individual;
 - 3) may furnish eligibility information only to enrolled providers whose participation in the Medicaid Program is currently in good standing;
 - 4) may furnish eligibility information only for dates of service within 12 months of the date of the query;
 - 5) may charge reasonable fees for services rendered;
 - 6) must make his service available to any interested Medicaid provider;
 - 7) must comply with all relevant state and federal confidentiality and privacy laws and regulations and federal regulations concerning contracts;
 - 8) must comply with all provisions of its contract with the Department;
 - 9) must establish appropriate administrative, technical and physical safeguards to assure the security and confidentiality of recipient records;

10) must comply with the standards of confidentiality required of the state Medicaid agency; and

11) must maintain records for one year from the date of verification and showing provider name, recipient name, provider identification number, the number of inquiries for each provider, the dates of the provider queries, and the dates the services were rendered.

4. Vendors may only access the Medicaid eligibility information by entering the following identifying information. The bureau will confirm the eligibility of the recipient only if the vendor's recipient data match the bureau's data for that recipient as required below:

- a. provider identification number and the recipient's full name, including middle initial and;
- b. one of the following data elements:
 - 1) recipient's Medicaid identification number;
 - 2) recipient's date of birth; or
 - 3) social security number; and
- c. date of service.

5. The bureau reserves the right to conduct random audits of compliance with all regulatory and contractual provisions. The confirmation of noncompliance with any regulatory or contractual provision(s) shall result in appropriate corrective action and/or termination of access to the recipient eligibility data.

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing will be held on this matter on Tuesday, November 26, 1996 at 8:30 a.m. in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Eligibility Verification Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase state costs by approximately \$75 for SFY 1997 for the administrative expense of promulgating this proposed rule. No costs are anticipated for SFY 1998 and 1999.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no increase in federal revenue collections expected from the expense of promulgating this proposed rule due to the capped federal funding for the state's administration of the Medicaid Program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The providers of Medicaid eligibility verification services will experience costs associated with their business agreements with the fiscal intermediary for the Medicaid Program to access recipient eligibility data. Benefits to the providers of these services will result based on their business agreements with Medicaid providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9610#088

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Optional Targeted Case
Management—Infants and Toddlers**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This proposed rule is proposed in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Optional Targeted Case Management Services to Title XIX eligible infants and toddlers with special needs who are categorized as developmentally delayed under the ChildNet Program. The criteria for ChildNet includes those infants and toddlers ages birth through 3 years inclusive (0-36 months) who have established medical conditions, other biological factors, or are developmentally delayed. These criteria are further defined in Chapter 34 of the Code of Federal Regulations (CFR), Section 303.300.

The Bureau provides case management services to assist eligible individuals in gaining access to needed medical, social and educational services. Currently, Medicaid eligible infants and toddlers may receive case management services regardless of the number of other Medicaid services received by the Medicaid recipient. The Bureau has now determined it is necessary to limit coverage for Optional Targeted Case

Management services to those infants and toddlers who are either participants in the MR/DD waiver or who receive two or more of the following Medicaid services: assistive technology services and devices; audiology services; health services; medical services provided by a licensed physician to determine a child's developmental status and the need for early intervention services; home health services; occupational therapy services; physical therapy services; psychological services; speech and language pathology services; and vision services. Infant and toddler case management recipients who receive less than two of the above referenced Medicaid services shall no longer be eligible to receive case management services. This action does not affect participants of the MR/DD waiver or the recipient's eligibility for Medicaid benefits.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing limits coverage for Optional Targeted Case Management services to those infants and toddlers who are either participants in the MR/DD waiver or who receive two or more of the following Medicaid services: assistive technology services and devices; audiology services; health services; medical services provided by a licensed physician to determine a child's developmental status and the need for early intervention services; home health services; occupational therapy services; physical therapy services; psychological services; speech and language pathology services; and vision services. Infant and toddler case management recipients who receive less than two of the above referenced Medicaid services shall no longer be eligible to receive case management services. This action does not affect participants of the MR/DD waiver or the recipient's eligibility for Medicaid benefits.

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Wednesday, November 27, 1996 at 9:30 a.m. in the Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Optional Targeted Case Management—
Infants and Toddlers**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that implementation of this proposed rule and the corresponding emergency rule limiting optional targeted case management services for infants and toddlers will reduce

state expenditures by approximately \$147,079 for SFY 1997 and \$227,670 for state fiscal years 1998 and 1999. The administrative cost of \$150 is included for the printing of this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will decrease federal revenue collections by approximately \$646,887 for SFY 1997 and \$808,134 for state fiscal years 1998 and 1999.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Providers of case management services will experience the program reductions of \$794,116 for SFY 1997 and \$1,035,804 for state fiscal years 1998 and 1999 for optional targeted case management services to Medicaid recipients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9610#093

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Professional Services Program—Chiropractic Care Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is proposing to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is to be adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Coverage for chiropractic services under the Medicaid State Plan was suspended effective December 1, 1995 for persons 21 years of age and older because program expenditures were reaching the amount appropriated for this service by the Legislature. Coverage of mandatory medically necessary manual manipulation of the spine continued for recipients under the age of 21 years in the Early Periodic, Diagnostic and Treatment Program (EPSDT) when rendered on the basis of a referral from a medical screening provider for the EPSDT Program. The 1996-97 General Appropriations Act contains expenditure authority for chiropractic care up to \$6,000,000. Therefore, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is now proposing to provide coverage for chiropractic services under the Medicaid State Plan according to the following regulations.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend the rule "Chiropractic Care" adopted on March 20, 1996 (*Louisiana Register*, Volume 22, Number 3, pages 216

and 217) by adopting the following additional provisions to govern chiropractic services under the Professional Services Program of the Medicaid State Plan.

I. Reimbursement Provisions for all Recipients Regardless of Age

A. Only manual manipulations of the spine are payable as follows.

1. CPT physical medicine code 97260 is reimbursed \$10.50 per unit and one unit per day is allowed.

2. CPT physical medicine code 97261 is reimbursed \$6 per unit and two units per day are allowed.

B. Radiology Procedures

1. Only the following CPT radiology procedure codes are payable:

72010	72052	72080	72114	72020
72069	72090	72120	72040	72070
72100	72072	72050	72074	72110

2. The maximum expenditure for radiology procedures per recipient per state fiscal year is \$200 among all chiropractic providers.

II. Service Limitations

A. A chiropractic care service is defined by the Medicaid Program as a medically necessary manual manipulation of the spine performed on one to three areas of the spine.

B. Recipients 21 years of age and older are allowed a maximum of 12 chiropractic services for 12 different dates of service per state fiscal year. Prior authorization must be obtained for the 13th and subsequent chiropractic services up to a maximum of 18 services. Approval shall be based on the determination of medical necessity by the fiscal intermediary.

C. Recipients 5 through 20 years of age are allowed a maximum of 12 chiropractic services for 12 different dates of service per state fiscal year without prior authorization having to be obtained or documentation of medical necessity having to be submitted. Reimbursement for the 13th and subsequent spinal manipulations shall pend for medical review and shall be paid only if provided as the result of a referral from an EPSDT medical screening provider.

D. Recipients from birth through 4 years of age are eligible to receive chiropractic care services only if each service is prior authorized. Requests to treat a child under 4 years of age must be received and prior authorized before the first treatment is administered. Claims for dates of service prior to the authorization date will not be considered for payment.

III. Prior Authorization

The treatment plan must be prior authorized by the fiscal intermediary for all manual manipulations for recipients under 4 years of age and for recipients 21 years of age and older after the provision of the 13th chiropractic service. Changes to the approved treatment plan must be re-submitted to the fiscal intermediary for approval prior to implementing changes in the treatment plan in order to receive reimbursement.

IV. Funding Limitation

The Bureau shall reimburse claims for chiropractic services only up to the extent that funds are authorized by the legislative appropriation of the 1996-1997 General Appropriations Act.

Interested persons may submit written comments to:

Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, November 26, 1996, at 1 p.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Chiropractic Care Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this proposed rule will increase Medicaid program costs by approximately \$1,112,400 for SFY 1997 in accordance with the 1996-1997 General Appropriations Act. At this time no expenditure projections are made for SFY 1998 and 1999. Also increased state costs of \$150 for the promulgation of this rule is projected.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no increase in federal revenue collections expected from this proposed rule due to the capped federal funding for the state's administration of the Medicaid Program.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

The providers of the chiropractic care services who are enrolled in the Medicaid Program will receive the \$6,000,000 appropriation as payments for their services to Medicaid recipients in accordance with the approved Medicaid State Plan for delivery of these services. Medicaid recipients will benefit as they will receive these services at no personal expense.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There is no known effect on competition and employment.

Thomas D. Collins
Director
9610#095

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Professional Services Program—Physical
Medicine Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as

authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has provided reimbursement for physical medicine services in the Medicaid benefit categories of Home Health Services, Rehabilitation Services, Early Periodic Screening, Diagnosis and Treatment Services and as a component of Physician Services.

The Department is proposing to adopt the following rule to suspend reimbursement for certain CPT procedure codes for physical medicine services under the Professional Services Program as said services are covered under the aforementioned categories.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing suspends reimbursement for the following CPT procedure codes for physical medicine services under the Professional Services Program:

97010	97020	97026	97035	97122
97012	97022	97028	97036	97250
97014	97024	97034	97039	97265

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding the proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, November 26, 1996 at 1 p.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Professional Services Program—Physical
Medicine Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this proposed rule will increase state administrative costs by approximately \$150 only for 1997 for promulgation of this proposed rule. There is no anticipated programmatic fiscal impact as the services associated with these Current Procedure Terminology (CPT) codes are reimbursed by similar codes already on the physician formulary file.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no increase in federal revenue collections expected for the administrative expense from this proposed rule due to capped federal funding for the administration of the Medicaid Program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS

TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups. Medicaid recipients continue to receive appropriate medical services based on the CPT codes included on the physician formulary file which is also the basis for the reimbursement of all physician services.

IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9610#091

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Reimbursement Methodology—Long-Term Hospitals

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing has provided reimbursement for certain specialty hospital services including long-term hospitals under specialty hospital peer groups as established by the Hospital Prospective Reimbursement Methodology Rule adopted by reference in the *Louisiana Register*, Volume 20, Number 6, page 668. The Bureau has determined that it is necessary to reimburse long-term hospitals for psychiatric treatment at the prospective per diem rate established for psychiatric treatment facilities in the Hospital Prospective Reimbursement Methodology Rule. An emergency rule was adopted to implement this reimbursement change effective October 13, 1996 (*Louisiana Register*, Volume 22, Number 9). The following proposed rule is necessary to maintain the cost savings initiated by emergency rulemaking.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend the Hospital Prospective Reimbursement Methodology Rule (*Louisiana Register*, Volume 20, Number 6, page 668) by reimbursing prospectively long-term hospitals for psychiatric treatment at the prospective per diem rate established for psychiatric treatment facilities in the Hospital Prospective Reimbursement Methodology Rule (*Louisiana Register*, Volume 20, Number 6, page 668).

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, November 26, 1996 at 1 p.m. in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At this time, all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Reimbursement Methodology—
Long-Term Hospitals**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that implementation of this proposed rule and the corresponding emergency rule on the hospital prospective reimbursement revision for inpatient psychiatric services provided by long-term hospitals will reduce state costs by approximately \$973,290 for SFY 1997; \$2,107,646 for SFY 1998 and \$2,173,984 for SFY 1999. The administrative cost of \$150 for the printing of this proposed rule is included.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will decrease federal revenue collections by approximately \$4,277,046 for SFY 1997, \$5,441,230 for SFY 1998 and \$5,612,493 for SFY 1999.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)

It is estimated that the long-term hospitals will experience reimbursement reductions of approximately \$5,250,486 for SFY 1997, \$7,548,876 for SFY 1998; and \$7,786,477 for SFY 1999 for inpatient psychiatric services to Medicaid recipients.

IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9610#094

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Medical Disclosure Panel

Informed Consent—Anesthesia and Pregnancy; Oral Surgery; Radiation Therapy; Craniotomy; Plastic Surgery; and Septoplasty (LAC 48:I.Chapter 23)

As authorized by R.S. 40:1299.40.E, as enacted by Act 1093 of 1990 and later amended by Act 962 of 1992 and Act 633 of 1993, the Department of Health and Hospitals, Medical Disclosure Panel, is making technical amendments to rules which require which risks must be disclosed under the Doctrine of Informed Consent to patients undergoing medical treatments or procedures and the Consent Form to be signed by the patient and physician before undergoing any such treatment or procedure.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Chapter 23. Informed Consent

§2311. Anesthesia and Pregnancy

A.1. - 9. ...

10. meconium aspiration (drawing of meconium, a fetal waste product sometimes present in the fluid surrounding the fetus, into the lungs of the unborn child).

11. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, 40.E et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, LR 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended LR 23:

§2317. Oral Surgery

A.1. - 5. ...

6. Fracture of mandible (lower jaw) or maxilla (upper jaw).

A.7. - D. 4. ...

5. Premature loss of implant(s) and attachment(s).

D. 6. - G. 11. ...

12. Blood supply compromise to tissues, hard and soft, resulting in loss of tissues.

G. 13 - N. 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40.E et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, LR 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended LR 23:

§2337. Radiation Therapy (Radiation Oncology)

A.1.a. - A.1.i. ...

2. Late Reaction(s)

a. Dry mouth and altered, or loss of sense of, taste.

A.2.b. - E.2.f. ...

g. These reactions are likely to be intensified by chemotherapy in a patient who is receiving, has received, or will receive radiation therapy.

E.2.a. - H.1.d. ...

2. Late Reaction(s)

H.2.a. - b. ...

c. Prominently dilated small blood vessels.

H.2.d. - K.2.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, 40.E et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, LR 18:1391 (December 1992), repromulgated by LR 19:1581 (December 1993), amended LR 23:

§2343. Craniotomy

A. - M. ...

N. Numbness or sensory loss at the operative site or remote from the operative site.

O. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40.E et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, LR 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended LR 21:470 (May 1995), amended LR 23:

§2347. Plastic Surgery

A. - C.9. ...

10. Alteration of appearance of breast tissue during mammograms.

C.11. - D.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40.E et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, LR 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended LR 21:700 (July 1995), amended LR 23:

§2377. Septoplasty

A. - B. ...

C. Injury to nerve(s) of upper teeth;

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40.E et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, LR 20:670 (June 1994), amended LR 23:

Interested persons may submit written comments to Donald J. Palmisano, M.D., J.D., Chairman of the Louisiana Medical Disclosure Panel, Box 1349, Baton Rouge, LA 70821. He is responsible for responding to inquiries regarding these proposed rules.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Informed Consent

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs anticipated from the adoption of these rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rules will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or nongovernmental units.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition and employment from implementation of these rules.

Bobby P. Jindal
Secretary
9610#081

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Labor
Office of Employment Security**

**Postponements, Continuances, Re-openings, and
Rehearings (LAC 40:IV.113)**

In accordance with the provisions for rule adoption under R.S. 49:950 et seq., the Administrative Procedure Act, and under the statutory authority of R.S. 23:1631, notice is hereby given that the Board of Review of the Department of Labor proposes to adopt the following rule.

The proposed adoption of such rule shall serve to avert the increasing danger of parties appearing before administrative hearings and being placed in jeopardy of adversely affecting themselves where the appellant does not appear. An administrative appeal shall be dismissed whereupon the appellant fails to appear at the scheduled hearing. Requests of continuances shall require a written showing of good cause by the requesting party. The proposed rule shall promote efficiency and cost savings for the parties and the State.

This proposed rule is currently in effect by virtue of an emergency rule published in this issue of October, 1996 of the *Louisiana Register*, Volume 22, Number 10. The text of this Notice of Intent may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

All interested persons are invited to submit data, views, comments, or arguments, in writing, on the proposed rule to Karen Raby, Administrative Law Judge, Board of Review, Department of Labor, Box 94094, Baton Rouge, LA 70804-9094, or by FAX (504) 342-4223 no later than 4 p.m, Friday, November 22, 1996.

A public hearing will be held on Tuesday, November 26, 1996 at 1:30 p.m. in the Fourth Floor Conference Room, Administrative Building of the Department of Labor, 1001 North Twenty-third Street, Baton Rouge, LA 70802.

K. Gordon Flory
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Postponements, Continuances,
Reopenings, and Rehearings**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There could be some small indeterminable savings to state government as appeals will not be entertained where the appellant has not appeared and a hearing will not be conducted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local government units as the result of implementing this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Appeals shall not be entertained where the appellant has not appeared without good cause. The appearing appellee shall not be forced to testify, removing the danger of adversely affecting themselves. The parties to these proceedings, employers and claimants, may experience savings if the party is not forced to pursue appeal of an adverse decision caused by the party's own testimony.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule shall facilitate and streamline the process of administrative appeals and will not directly affect employment or competition.

K. Gordon Flory
Chairman
9610#075

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission**

Permit Fees (LAC 55:IX.107 and 113)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce rules and regulations, notice is hereby given that the Commission proposes to amend its rules and regulations. The proposed rule is necessary to meet the requirements as prescribed by the 1996-97 budget. The proposed rule complies with the statutory law regarding payment of permit fees.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

§107. Requirements

A.1. - 5.b. ...

6. Must have paid permit fee in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be as described in R.S. 40:1849(A) with a minimum of \$75.

A.6.a. - 13. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 23:

§113. Classes of Permits

A.1.a. - f. ...

g. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be as described in R.S. 40:1849(A) with a minimum of \$75.

A.1.g.i. - 4.c.ii. ...

d. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be as described in R.S. 40:1849(A) with a minimum of \$75.

A.4.d.i. - 6.d. ...

e. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be as described in R.S. 40:1849(A) with a minimum of \$75.

A.6.e.i. - 7.c.ii. ...

d. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be as described in R.S. 40:1849(A) with a minimum of \$75.

A.7.d.i. - 10.b ...

c. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be as described in R.S. 40:1849(A) with a minimum of \$75.

A.10.c.i. - 11.j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:704 (July 1995), LR 23:

The Commission will hold a public hearing November 27, 1996, 1881 Wooddale Blvd., Baton Rouge, LA, 8:30 a.m. Written comments will be accepted through November 22,

1996 and should be sent to G. L. "Mike" Manuel, Jr. at Box 66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing.

G. L. "Mike" Manuel, Jr.
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Permit Fees

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to state or local governmental units. The system to collect these fees is already established, only the rate of the permit fee is changing.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is an estimated positive impact on state self-generated revenues of \$116,000 in the first year and \$145,000 in the remaining years.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be an increase in cost to L.P. Gas dealers of 15/100's of 1 percent of gross annual sales of liquefied petroleum gas on the permit fee.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no estimated effect on competition and employment since this will only affect those dealers who pay over the minimum fee due.

Thomas H. Normile
Undersecretary
9610#080

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Revenue and Taxation Severance Tax Division

Oilfield Site Restoration Fee (LAC 61:I.5301)

Under the authority of R.S. 30:87 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is given that the Department of Revenue and Taxation proposes to amend LAC 61:I.5301 pertaining to the oilfield site restoration fee.

Natural gas producers have experienced difficulties meeting the end of the month due date currently prescribed. This amendment extends the due date for natural gas to the fifteenth day of the following month, which is the same as it is for the severance tax.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 53. Miscellaneous Fees

§5301. Oilfield Site Restoration Fee

* * *

C. Due Dates and Delinquent Dates

1. The first fees due under R.S. 30:87(A) and (B) shall be for the period ending December 31, 1993, based on the oil, condensate, and natural gas production for the months of September, October, November, and December 1993, and shall be due on or before January 31, 1994, and shall become delinquent after such date and from such time shall be subject to the interest, penalties, and costs as provided in Chapter 18, Subtitle II of Title 47.

2. The fees levied by R.S. 30:87(A), on oil and condensate, shall be due on a quarterly basis and will be due on or before the last day of the month following the last day of the quarter period and shall become delinquent after this date and shall be subject to interest, penalties, and costs as provided in Chapter 18, Subtitle II of Title 47.

3. The fees levied by R.S. 30:87(B), on natural gas, shall be due on a quarterly basis and will be due on or before the fifteenth day of the second month following the last day of the quarter period and shall become delinquent after this date and shall be subject to interest, penalties, and costs as provided in Chapter 18, Subtitle II of Title 47.

D. Suspension and Reinstatement of the Fees

1. The Secretary of the Department of Natural Resources will certify to the Secretary when the Oilfield Site Restoration Fee fund equals or exceeds \$10 million. The Secretary will notify, in writing, all parties who are remitting the fee to cease payment of the fee by a specific date. All fees collected up to that date will be remitted on or before the first day of the second month following the date specified.

2. The Secretary of the Department of Natural Resources will certify to the Secretary when the Oilfield Site Restoration Fee fund has fallen below \$6 million. The Secretary will notify, in writing, all parties who are registered to collect and remit the fee to resume collection and payment of this fee starting with a specific date. The resumption date will be specified on the notice.

E. Reports and Payment of the Fees

1. All returns and reports shall be made on forms prescribed by the Secretary and furnished by the Department of Revenue and Taxation, or on similar forms that have been approved for use by the Secretary. Returns and reports shall be completed and filed in accordance with instructions issued by the Secretary.

2. Any person who severs, purchases, or processes gas, oil, distillate, condensate, or similar natural resources is required to furnish information necessary for the proper enforcement and verification of the fees levied in R.S. 30:87.

3. Every operator of record of producing oil and/or gas wells must submit a return and make payments of the fees imposed by R.S. 30:87. Purchasers of oil and/or gas may make payment for the operator of record and their respective working-interest owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:87.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Severance Tax Division, LR 20:2 (February 1994), amended LR 23:

All interested persons may submit data, views, or arguments, in writing to: Carl Reilly, Assistant Director, Severance Tax Division, Department of Revenue and Taxation, Box 201, Baton Rouge, LA 70821. All comments must be submitted by 4:30 p.m. Monday, November 25, 1996. A public hearing will be held on Tuesday, November 26, 1996 at 10 a.m. in the Department of Revenue and Taxation Secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

Carl L. Reilly
Assistant Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Oilfield Site Restoration Fee (LAC 61:I.5301)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed rule will have no impact on the Department's costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This proposed rule should have no effect on the state's revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This proposed rule should have small savings effect on costs or economic benefits to taxpayers.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule should have no fiscal impact on competition or employment.

John Neely Kennedy
Secretary
9610#030

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

AFDC—Alien Eligibility (LAC 67:III.1141 and 1143)

The Department of Social Services, Office of Family Support, proposes to amend the LAC 67:III.Subpart 2, the Aid to Families with Dependent Children (AFDC) Program.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (Public Law 104-193), mandates revision of AFDC Program policy regarding the eligibility of

noncitizens. This rule is being promulgated to limit eligibility for noncitizens by redefining the groups of noncitizens who may be eligible for benefits, assigning time limits and deeming income and resources of a sponsor and sponsor's spouse.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may submit written comments within 30 days to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on November 26, 1996, in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Alien Eligibility**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The immediate cost of implementation is estimated to be less than \$1,000. Grant savings are estimated to be \$85,176 in SFY 96/97 and \$170,352 in SFY 97/98 and SFY 98/99.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Since the amount paid in grants will be reduced, there will be a reduction in federal reimbursements received by the state. This is estimated to be \$60,782 in SFY 96/97 and \$121,563 in SFY 97/98 and in SFY 98/99.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

Some noncitizens currently receiving assistance and some future applicants will be ineligible for assistance due to the more restrictive criteria.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There is no anticipated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9610#078

H. Gordon Monk
Chief Coordinator to the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**AFDC—Eligibility Requirements; Standard Filing Unit
(LAC 67:III.1113 and 1133)**

The Department of Social Services, Office of Family Support, proposes to amend the LAC 67:III.Subpart 2, the Aid to Families with Dependent Children (AFDC) Program.

Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (Public Law 104-193), applicants and recipients of AFDC will no longer receive the benefit of a disregard of the first \$50 of child support collected. This rule is being promulgated in order to count as income any child support payments made to the AFDC applicant/recipient. In §1133 reference to the disregard is removed from the Paragraph.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 2. Aid to Families with Dependent
Children (AFDC)**

**Chapter 11. Application, Eligibility and Furnishing
Assistance**

**Subchapter B. Coverage and Conditions of Eligibility
§1113. Eligibility Requirements**

* * *

D. Child Support Payments. In any case in which child support payments are collected for a recipient of AFDC with respect to whom an assignment is in effect, such amount collected will be counted as income to determine eligibility.

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 232; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Louisiana Health and Human Resources Administration, Division of Family Services, LR 1:494 (November 1975), amended by the Department of Social Services, Office of Family Support, LR 23:

§1133. Standard Filing Unit

Parents and all minor siblings living with a dependent child who applies for or receives AFDC shall be included in the filing unit. SSI recipients, stepbrothers and stepsisters are excluded from this requirement. In addition, if a minor who is living in the same home as his/her parents applies for aid as the parent of a needy child, the income of the minor's parents will be counted available to the filing unit (after applying the same disregards as are applied to the income of stepparents).

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-369 and F.R. 49:35586 et seq., P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Family Support, LR 23:

Interested persons may submit written comments within 30 days to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-4065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on November 26, 1996, in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: AFDC—Eligibility Requirements;
Standard Filing Unit**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The immediate cost of implementation is the cost associated with the publishing of the rule and the printing of policy material. No new forms will result from implementation of this rule. Grant savings are estimated to be \$81,993 in SFY 96/97 and \$334,488 in SFY 97/98 and SFY 98/99.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be a loss of federal funds in the amount of \$58,510 which is the federal match on grant savings.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

AFDC applicants receiving child support will not receive the benefit of a disregard of the first \$50 in determining AFDC eligibility. Some currently eligible recipients will lose eligibility due to the loss of the disregard.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There is no anticipated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9610#079

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**General Administrative Procedures and Food Stamp
Program (LAC 67:III.Chapters 1 and 19)**

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III, Subpart I, General Administrative Procedures and Subpart 3, Food Stamps.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, mandated certain food stamp revisions. This rule is being promulgated to

encompass these revisions in the areas of Certification Provisions, Program Violation Disqualifications, Work Requirements and Work Registration, Allotment, Shelter Limit and Vehicle Adjustments, and Alien Eligibility and the release of confidential information which is addressed in LAC 67:III, General Administrative Procedures. This rule is being promulgated to encompass those changes.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may submit written comments within 30 days to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-4065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on November 26, 1996, in the Second Floor Auditorium of the Department of Social Services, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: General Administrative Procedures and
Food Stamps Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated cost to state government is the costs associated with the publishing of the policy changes and printing related forms and material. Food stamp benefits are 100 percent federally funded. Immediate printing costs are projected to be \$1,030.

The rule will have no impact on any local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no effect on revenue collection of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

There are no costs to any persons or nongovernmental groups. There may be an impact on food stamp benefits to recipients, however, the impact is indeterminable.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9610#077

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of the Secretary

Bridge Toll—Crescent City Connection Exemptions - Law Enforcement Personnel (LAC 70:I.513)

The Department of Transportation and Development, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby proposes to adopt rules applicable to the Crescent City Connection, Sunshine Bridge, and the ferries known as Algiers/Canal Street, Gretna/Jackson Avenue, and Lower Algiers/Chalmette.

The Department has adopted these rules through a Declaration of Emergency published in this issue of the *Louisiana Register*. The emergency rules are effective October 20, 1996, and shall remain in effect for the 120 day maximum period allowed or until adoption of a final rule, whichever occurs first.

Title 70

TRANSPORTATION AND DEVELOPMENT

Part I. Office of the General Counsel

Chapter 5. Tolls

§513. Crescent City Connection Exemptions - Law Enforcement Personnel

A. Free passage across the Crescent City Connection, Sunshine Bridge, and the ferries known as Algiers/Canal Street, Gretna/Jackson Avenue, and Lower Algiers/Chalmette shall be granted to all law enforcement personnel who are employed on a full-time basis and have law enforcement agency equipment.

B. Law enforcement agency, for purposes of R.S. 40:1392 and LAC 70:I.513 shall mean any agency of the State or its political subdivisions and the Federal Government, who are responsible for the prevention and detection of crime and the enforcement of the criminal, traffic, or highway laws of this state or similar federal laws and who are employed in this state. Officers who serve in a voluntary capacity or as honorary officers are not included.

C. Agencies which meet the above criteria shall include the Louisiana State Police, sheriff's departments of the parishes of this state, municipal police departments, levee board police departments, port police departments, and the Federal Bureau of Investigation exclusively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1392 and R. S. 48:26.

HISTORICAL NOTE: Promulgated by the Department of Transportation, Office of the Secretary, LR 23:

Interested persons may send oral or written comments on this proposed rule until November 20, 1996, through the close of business at 4:30 p.m., to Alan LeVasseur, Executive Director, Crescent City Connection Division, Box 6297, New Orleans, LA 70714, (504) 364-8100.

Frank M. Denton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Toll Exemptions for Law Enforcement Personnel

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no anticipated implementation costs for state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenues from toll collections for the state should increase by approximately \$182,500 per year based upon the number of vehicles which will no longer be exempt from tolls on the Crescent City Connection.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be additional tolls (APPROXIMATELY \$182,500) paid by entities no longer exempt from the tolls.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will no effect on competition or employment.

Frank M. Denton
Secretary
9610#097

John R. Rombach
LegislativeFiscalOfficer

NOTICE OF INTENT

Department of Transportation and Development Office of the Secretary

Bridge Toll—Crescent City Connection Exemptions - Students (LAC 70:I.509)

The Department of Transportation and Development, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby proposes to amend rules implementing certain bridge toll exemptions applicable to the Crescent City Connection.

The Department has amended these rules through a Declaration of Emergency published in this issue of the *Louisiana Register*. The emergency rule is effective October 20, 1996 and shall remain in effect for the 120 day maximum period allowed or until adoption of a final rule, whichever occurs first.

Title 70

TRANSPORTATION AND DEVELOPMENT

Part I. Office of the General Counsel

Chapter 5. Tolls

§509. Crescent City Connection Exemptions - Students

A. - D. ...

E. School Buses - Requirements for Exemption

1. Free passage across the Crescent City Connection shall be granted to all clearly marked school buses at any time, upon the bus driver's delivery of a free passage coupon at the bridge toll plaza.

2. Free passage coupons for school buses shall be obtained by signed application of the official school system's

transportation coordinator to the Department and Development Crescent City Connection Division office. The school system's transportation coordinator is responsible for distributing the free passage coupons to eligible school bus drivers for their school system.

3. Official school systems, for purposes of §509, are parish public school systems, private schools operating in the State of Louisiana, and parochial schools operating in the State of Louisiana.

4. Bus drivers who privately own their clearly marked school buses are eligible for individual application to the Department of Transportation and Development Crescent City Connection Division office for free passage coupons. These bus drivers must attach an original letter from the school system they serve to their signed application. The letter certified that their bus serves the school system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158.

HISTORICAL NOTE: Promulgated by the Department of Transportation, Office of the Secretary, LR 19:1595 (December 1993), amended LR 23:

Interested persons may send oral or written comments on this proposed rule until November 20, 1996, through the close of business at 4:30 p.m., to Alan LeVasseur, Executive Director, Crescent City Connection Division, Box 6297, New Orleans, LA 70714, (504) 364-8100.

Frank M. Denton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Toll Exemptions for School Buses

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be minimal implementation costs to the state. The issuance of coupons to eligible school transportation systems will cost approximately \$6,500 annually.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governments. School buses pass over the bridge free of charge at the present time. This rule only implements a new identification system.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no cost or benefit to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Frank M. Denton
Secretary
9610#098

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Treasury Board of Trustees of the Teachers' Retirement System

Deferred Retirement Option Plan (LAC 58:III)

In accordance with R.S. 49:950 et. seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees of Teachers' Retirement System of Louisiana approved amendments to Policies for Implementation of the Deferred Retirement Option Plan for purposes of clarifying the definition of *teaching experience* under the provisions of R.S. 11:739.

Deferred Retirement Option Plan

* * *

19. Retirees who return-to-work under the provisions of R.S. 11:739 shall be governed by the following definition of *teaching experience*:

Any work experience which would have qualified the member for TRSL membership under the provisions of R.S. 11:701(23) if the experience had been gained in the Louisiana public education system will be considered *teaching experience*. *Teaching Experience* will include qualifying work (including work during DROP) in any recognized education setting, whether public or private, including both in-state and out-of-state locations. If the experience is not documented in the member's file, the member will be responsible for providing documentation from their previous employer in a timely manner. *Teaching experience* will NOT include unused leave, furlough, strike time or unpurchased leave without pay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:

Interested persons may comment on the proposed rule in writing until 4:30 p.m., December 31, 1996, to: Graig A. Luscombe, Assistant Director, Teachers' Retirement System of Louisiana, Box 94123, Baton Rouge, LA 70804-9123.

James P. Hadley, Jr
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Deferred Retirement Option Plan

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs or savings to state or local governmental units which result from this amendment to policies presently governing the administration of the Deferred Retirement Option Plan. The proposed rule would allow some retired instructors, who would otherwise not consider part-time instruction, to provide such a service without reduction in his

	XLV.301-431	Rule Withdrawal	Apr 280
	XLV.Chap.15,45	Amended	Mar 201
	XLV.Chapter 111	Adopted	Mar 195
	XLVII.3305,3307	Amended	Feb 104
	XLVII.3705-3713	Repealed	Apr 280
	XLVII.4501-4517	Adopted	Apr 281
	LIV.107,115	Amended	Apr 284
	LVII.512	Adopted	Jun 459
	LVII.518	Adopted	May 371
	LX.Chapters 1-17	Amended	Feb 101
	LXI.309	Amended	Apr 286
	LXI.1701	Amended	Apr 287
	LXI.2501-2509	Amended	Aug 713
	LXVII.705	Amended	Mar 190
	LXVII.3103	Adopted	Feb 96
	LXVII.4707	Repromulgated	Feb 95
	LXVII.2101-2105	Repromulgated	Feb 96
	LXVII.2107	Repealed	Feb 97
	LXXV.Chapters 1-7	Amended	May 346
	LXXXVI.703	Amended	Jul 582
48	I.2303	Amended	Jan 29
	I.2305	Repromulgated	Jun 456
	I.2438-2444	Amended	Jan 30
	I.2446,2449	Adopted	Jan 31
	I.2449	Repromulgated	Apr 285
	I.2449	Repromulgated	Aug 712
	I.3945	Adopted	Mar 216
	I.15101,15103	Repealed	Sep 840
	V.Chapters 49-59	Amended	May 362
	V.12314	Adopted	Jan 25
	V.13301,13303	Adopted	Sep 840
55	I.1301, 1303	Amended	Sep 845
	I.1305-1317	Adopted	Sep 846
	III.Chapter 1	Adopted	Apr 286
	VII.317	Amended	Feb 116
58	I.Chapters 1-29	Amended	May 373
	III.	Adopted	Apr 290
61	I.Chapter 33	Adopted	Jun 460
	I.4301	Amended	Sep 855
	I.4351	Amended	Sep 852
	I.4409	Amended	Sep 854
	I.4418	Adopted	Sep 854
	I.4905	Adopted	Jan 35
	V.Chapters 3-35	Amended	Feb 117
67	III.1931	Amended	Apr 286
	III.2005	Amended	Jul 584
	III.2524	Adopted	Mar 224
	III.2527	Amended	Feb 118
	III.2540	Adopted	Feb 118
	III.2543	Adopted	Mar 223
	III.2703	Adopted	Feb 117
	III.2705	Adopted	Feb 118
	III.2751,2753	Amended	Feb 117
	VII.Chapter 21	Adopted	Feb 119
70	I.101-113	Amended	Mar 224
	I.Chapter 2	Amended	Mar 228
	III.301-313	Repealed	Mar 228
	III.Chapter 21	Adopted	Mar 228
73	I.Chapters 5-19	Amended	Feb 120
	I.Chapter 11	Adopted	May 372
76	III.325	Adopted	Sep 861
	III.327	Adopted	Sep 860
	VII.161	Amended	May 374
	VII.169	Amended	May 376
	VII.181	Adopted	Mar 231
	VII.201,203	Amended	May 373
	VII.335	Amended	Sep 860

VII.341	Amended	Mar 238
VII.343	Amended	Mar 236
VII.349	Amended	Mar 233
VII.403	Adopted	Mar 240
VII.405	Adopted	Mar 237
VII.515	Adopted	Feb 120
VII.703	Amended	Sep 859
XVII.101	Adopted	Mar 235
XVII.301	Adopted	Mar 231
XIX.101, 103	Amended	Jul 585
XIX.105	Adopted	Sep 856

Potpourri

POTPOURRI

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Horticulture Commission

Apiary Public Hearing

The Department of Agriculture and Forestry will consider two proposals to import a *Varroa* mite resistant stock of honey bees, *Apis mellifera*, under quarantine, into a coastal barrier island in Louisiana. The bees will be imported from Italy and Russia by the USDA/ARS Honey-bee Breeding, Genetics and Physiology Research Laboratory located in Baton Rouge, LA. The offspring from this stock would then be studied for resistance to *Varroa jacobsoni*.

Copies of the proposals may be obtained from Jimmy Dunkley, Administrative Coordinator, Horticulture and Quarantine Programs, Box 3118, Baton Rouge, LA 70821-3118, telephone (504) 925-7772.

Comments on the proposals may be made in writing to the above address before November 30, 1996. There will also be a public hearing to receive comments on November 14, 1996, at 7 p.m. in the Department of Agriculture and Forestry Auditorium, 5825 Florida Boulevard, Baton Rouge, LA.

Bob Odom
Commissioner

9610#074

POTPOURRI

Department of Agriculture and Forestry Office of Animal Health Services Livestock Sanitary Board

Brucellosis Eradication Public Hearing (LAC 7:XXI.11735)

Notice is hereby given, pursuant to R.S. 49:968(H)(2), that the Livestock Sanitary Board will convene and hold a public hearing at 9:30 a.m., Thursday, December 12, 1996, at the Department of Agriculture and Forestry, 5825 Florida

Boulevard, Baton Rouge, LA, for the purpose of receiving public comment on substantive changes which the Board proposes to make to amendments of its existing rules governing vaccination of heifer calves for brucellosis, previously noticed for adoption by notice of intent published in the August 20, 1996, issue of the *Louisiana Register*, LR 22:718. Interested persons may obtain a copy of the proposed changes from, and may submit written comments to: Dr. Maxwell Lea, Jr., Executive Secretary, Livestock Sanitary Board, 5825 Florida Boulevard, Baton Rouge, LA 70806, telephone (504) 925-3980.

At the scheduled public hearing all interested persons will be afforded an opportunity to make comments on the proposed changes. Written comments will be accepted through the close of business on the day of the hearing.

Dr. Maxwell Lea, Jr..
Executive Secretary

9610#096

POTPOURRI

Department of Environmental Quality Office of Air Quality and Radiation Protection

Municipal Solid Waste Landfills—Request for Public Comment

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et. seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary gives notice that a Section 111(d) Plan is proposed for Municipal Solid Waste Landfills in Louisiana. Section 111(d) Plans set forth requirements and procedures which states must follow to control a certain class of pollutants known as "designated pollutants." Designated pollutants are those for which ambient air quality standards have not been established and are not listed as hazardous under Section 112.

This document establishes emission standards for designated pollutants from designated facilities and provides for the implementation and enforcement of such emission standards. Louisiana intends to adopt, by reference, the Municipal Solid Waste Landfill standards promulgated by the United States Environmental Protection Agency which were published in the March 12, 1996 *Federal Register*.

A public hearing will be held at 1:30 p.m. on Monday, November 25, 1996 in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the Section 111(d) Plan. All interested persons are invited to submit written comments concerning the plan. Such comments should be submitted no later than December 2, 1996 to Annette Sharp. Ms. Sharp may be contacted at (504) 765-0914. Written comments should be mailed to Ms. Sharp at the following address: Air Quality Regulatory Division, Box 82135, Baton Rouge, LA 70884-2135. A copy of the Section 111(d) Plan may be viewed at

the Air Quality Regulatory Division from 8 a.m. to 4:30 p.m., Monday through Friday, at:

- (1). DEQ Headquarters, Air Quality Regulatory Division, 7290 Bluebonnet, Second Floor, Baton Rouge, LA;
- (2). DEQ Capital Regional Office, 5222 Summa Court, Baton Rouge, LA;
- (3). DEQ Acadiana Regional Office, 100 Asma Blvd., Suite 151, Lafayette, LA;
- (4). DEQ Northeast Regional Office, 804 31st Street, Suite D, Monroe, LA;
- (5). DEQ Southeast Regional Office, 3501 Chateau Boulevard-West Wing, Kenner, LA;
- (6). DEQ Southwest Regional Office, 3519 Patrick Street, Room 265A, Lake Charles, LA; or
- (7). DEQ Northwest Regional Office, 1525 Fairfield, Room 11, Shreveport, LA.

Gus Von Bodungen
Assistant Secretary

9610#101

POTPOURRI

Department of Environmental Quality Office of Legal Affairs and Enforcement Investigations and Regulation Development Division

Semiannual Regulatory Agenda

The Department of Environmental Quality wishes to announce the availability of the fall 1996 edition of the Semiannual Regulatory Agenda prepared by the Investigations and Regulation Development Division. The current agenda contains information on rules which have been proposed but have not been published as final and rules which are scheduled to be proposed in 1996 and 1997. Check or money order in the amount of \$2.15 is required in advance for each copy of the agenda. Interested persons may obtain a copy by contacting Lula Alexander, Department of Environmental Quality, Office of Legal Affairs and Enforcement, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884-2282 or by calling (504) 765-0399.

Tim B. Knight
Administrator

9610#100

POTPOURRI

Office of the Governor Division of Administration Community Development Section

Public Hearings—HUD Funded Programs

As set forth in 24 CFR Part 91, the U.S. Department of Housing and Urban Development (HUD) requires state agencies which administer certain HUD programs to

incorporate their planning and application requirements into one master plan called the Consolidated Plan. In Louisiana the four state agencies participating in this consolidated planning process and the HUD funded program administered by each agency include the Division of Administration/Office of Community Development (Small Cities Community Development Block Grant Program), the Louisiana Housing Finance Agency (HOME Investment Partnerships Program), the Department of Social Services/Office of Community Services (Emergency Shelter Grants), and the Department of Health and Hospitals/HIV Program Office (Housing Opportunities for Persons with AIDS). A summary of the four programs follows. A Consolidated Plan was prepared which outlines the state's overall housing and community development needs and a strategy for meeting those needs for federal fiscal years 1995-1999 and included a one year action plan for FY 1995 federal funds received for the four aforementioned HUD programs. An annual update or action plan for the distribution of funds must be prepared and publicized for each of the subsequent four program years.

The Small Cities Community Development Block Grant Program provides financial assistance to parishes of less than 200,000 persons and municipalities with a population of less than 50,000 in their efforts to provide a suitable living environment, decent housing, essential community facilities, and expanded economic opportunities. Eligible activities include community infrastructure systems such as water, sewer, and street improvements, housing rehabilitation, and economic development assistance in the form of grants and loans. Projects funded under this program must principally benefit persons of low and moderate income.

The objectives of the HOME Investment Partnerships Program are: to expand the supply of decent and affordable housing for low and very low income persons, to stabilize the existing deteriorating owner occupied and rental housing stock through rehabilitation, to provide financial and technical assistance to recipients/subrecipients, and to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of affordable housing.

The purpose of the Emergency Shelter Grants Program is to help local governments and community organizations to improve and expand shelter facilities serving homeless individuals and families, to meet the costs of operating homeless shelters, to provide essential services, and to perform homeless prevention activities.

The Housing Opportunities for Persons with AIDS Program provides localities with the resources and incentives to devise and implement long-term comprehensive strategies for meeting the housing needs of persons with Acquired Immuno-Deficiency Syndrome (AIDS) or related diseases and their families.

The four agencies administering these programs are beginning to prepare the Annual Action Plan for the FY 1997 federal allocation. The Annual Action Plan for the FY 1997 federal funds must indicate how the proposed method of distribution of resources and anticipated program income

from the four HUD programs will address the priority needs and specific objectives described in the Consolidated Plan.

To assist the agencies in developing the FY 1997 Annual Action Plan, public hearings will be held for the purpose of obtaining views on community development and housing needs throughout the State. Public hearings will be held on Thursday, November 14, 1996, at 2:30 p.m. in the Ruston Civic Center, 401 North Trenton Street, Ruston, LA, on Friday, November 15, 1996, at 10 a.m. in the Council Chambers at the Pineville City Hall, 910 Main Street, Pineville, LA, on November 21, 1996, at 1:30 p.m. in the Council Room at the Rayne City Hall, 801 The Boulevard, Rayne, LA, and on Friday, November 22, 1996, at 10 a.m. in the Committee Room on the third floor of the Capitol Annex, 1051 North Third Street, Baton Rouge, LA. These facilities are accessible to persons with physical disabilities. Non-English speaking persons and persons with other disabilities requiring special accommodations should contact the Office of Community Development at (504) 342-7412 or TDD (504) 342-7422 or at the address below at least five working days prior to the hearing.

Anyone who is unable to attend the public hearings may submit written comments to the Office Of Community Development, Box 94095, Baton Rouge, LA 70804-9095. Such comments should be submitted by December 2, 1996.

Mark C. Drennen
Commissioner

9610#104

POTPOURRI

Department of Health and Hospitals Board of Veterinary Medicine

Examination Dates

The Board of Veterinary Medicine will administer the national and state examinations for licensure to practice veterinary medicine as follows:

Examination	Date	Deadline to Apply
National Board	Second Tuesday of April and December	six weeks prior to exam date
Clinical Competency Test	Second Wednesday of April and December	six weeks prior to exam date
State Board	First Tuesday of every month	four weeks prior to desired exam date

Applications for all exams must be received on or before the deadline. Applications and information may be obtained from the Board office by calling (504) 342-2176.

Vikki Riggle
Executive Director

9610#106

POTPOURRI

Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well No.	Serial No.
K. T. Anderson	Caddo-Pine Island	Thigpen-Herold	012	042406
Apache Natural Gas Co., Inc.	Wilmer	LWR TUSC SUE;L K Superior PLGCO	001	098364
B and F Operating Co., Inc.	Logansport	PET SU53;J D Hilburn	001	077592
Pete Caldwell Drilling Co., Inc.	Monroe	James L McGuire	001	176756
Pete Caldwell Drilling Co., Inc.	Monroe	James and Penney Patrick	001	173329
Pete Caldwell Drilling Co., Inc.	Monroe	W M Caldwell Sr	001	173373
Pete Caldwell Drilling Co., Inc.	Monroe	Eva Caldwell	001	172239
Pete Caldwell Drilling Co., Inc.	Monroe	McGuire	002	181514
Pete Caldwell Drilling Co., Inc.	Monroe	Weir	002	181452
E. M. Carpenter, et al	Wildcat	Mims	002	140213
Lovic Desormeaux	Southwest Mermentau	Lovic Desormeaux	001	168351
H. W. Donnell	Caddo-Pine Island	H W Donnell Fee	001	038453
Edgewater Oil Co. Inc.	Charenton	Mrs Neily Landry	013	023737
F and F Drilling Company	Greenwood-Waskom	M Anisman	011	099726

The Gehrig Company of Arkansas	Caddo-Pine Island	Collins	001	052630
The Gehrig Company of Aransas	Caddo-Pine Island	Collins	005	055554
The Gehrig Company of Arkansas	Caddo-Pine Island	Collins	003	055555
W. J. Hutchinson and Son	Caddo-Pine Island	W J Hutchinson et al	002	021448
J and P Production	Caddo-Pine Island	LA Real Est and Dev Co	001	053104
J and P Production	Caddo-Pine Island	Files-Conger	001	074027
J and P Production	Caddo-Pine Island	Gamm B	001	053224
J and P Production	Caddo-Pine Island	Kimbell	001	034698
J and P Production	Longwood	Will Doty	001	065294
J and P Production	Longwood	Mitchell-Williams	001	063825
J and P Production	Longwood	Mitchell-Williams	002	063824
Kyl-Kat Petroleum	Sentell	Stinson	001	209941
Kyl-Kat Petroleum	Caddo-Pine Island	VUA; Haddad	001	201909
Kyl-Kat Petroleum	Caddo-Pine Island	VUA; Haddad	002	203244
The Leonard Company	Caddo-Pine Island	Muslow	G-3	018177
John W. Mecom	Venice	Rectangle Ranche	001	048353
Robert W. Omeara	Venice	Cattle Farms	009	086671
Robert W. Omeara	Venice	Cattle Farms	008	083375
Robert W. Omeara	Venice	Cattle Farms B	001	137860
Pentagon Exploration	Tew Lake	TL SU6;Rainey	001	189180
Pentagon Exploration	Nebo-Hemphill	Brooks	001	204324
Petroleum Venture Capitol Corp.	Greenwood-Waskom	Myra Mitchell D	004	108936
Progress Petroleum, Inc.	Big Lake	J O Hebert	001	037427

Quisto Energy Corp.	Merryville	W K Crawford	002	061538
Quisto Energy Corp.	Merryville	Crawford State	002	179795
Rembert and Morgan	Caddo-Pine Island	E R Hudson	001	023017
Starr Resources, Inc.	Ada	Ada SWD	1X	070325
Starr Resources, Inc.	Ada	L ROD C SUC;Youngblood	001	077008
Sun Resources	Grand River	Schwing-Levert	002	123040
Sun Resources, Inc.	Grand River	Hawkins SWD	001	089806
Tarpon Oil Company	Chegbay	Bowie SUB;A Peltier	001	069069
Merl Wiggins et al	University	Knox-Amiss-Community	A-3	022743
Merl Wiggins et al	University	Knox-Amiss-Community	003	035610

George L. Carmouche
Commissioner

9610#105

POTPOURRI

Department of Social Services Office of Community Services

Home Energy Assistance Program—Public Hearing

The Department of Social Services, Office of Community Services will hold public hearings concerning the use and distribution of federal fiscal year 1997 LIHEAP block grant funds in accordance with the LIHEAP State Plan for 1997. The primary purpose of this program is to reduce the burden of home heating and cooling expenses for low-income households through direct payments to home energy suppliers. The second goal is to conserve energy and reduce energy costs of low-income households through the weatherization of dwelling units. The final goal is to provide for energy crisis intervention in instances of weather related and supply shortage emergencies. Delivery of services will be via contractual agreements between local community action agencies or local governmental bodies and the Department of Social Services, Office of Community Services. Each parish

will receive a portion of funds based on the number of low-income households residing in the parish and Louisiana's total grant.

Louisiana's share of FFY 1997 LIHEAP block grant funds are anticipated to be near \$10,000,000. However, the final appropriation will be determined by Congress and the President. Should Louisiana's funding level for 1997 be significantly reduced, benefit levels to eligible households will be decreased effective with the new program year beginning January 1, 1997.

Copies of the 1997 *Low-Income Home Energy Assistance Program Plan* are available by writing to Ms. Shirley B. Goodwin, Assistant Secretary, Office of Community Services at Box 3318, Baton Rouge, LA 70821. Comments regarding the 1997 LIHEAP Plan will be accepted through November 22, 1996.

Public hearings regarding the LIHEAP plan will be held Friday, November 8, 1996 at 1:30 p.m., at 333 Laurel Street, Baton Rouge, LA in Room 806 (Eighth Floor Conference Room).

Madlyn Bagneris
Secretary

9610#102

POTPOURRI

Department of Social Services Office of Family Support

Public Hearing—State Plan for Temporary Assistance for Needy Families Block Grant

The Department of Social Services, Office of Family Support (OFS), has submitted a state plan to the DHHS Administration for Children and Families. This plan serves as application for the TANF block grant effective October 1, 1996, as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193). The programs to be funded through the TANF block grant will include the Family Independence Temporary Assistance Program (replacing Aid to Families with Dependent Children) and the Family Independence Work Program (replacing Project Independence).

The goals of the Family Independence Program are:

- 1) To provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.
- 2) To end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.
- 3) To prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies.
- 4) To encourage the formulation and maintenance of two-parent families.

Public hearings have been scheduled as follows:

Wednesday, October 23, 1996, 9-11 a.m., OFS Shreveport Regional Office, 1525 Fairfield Ave., Third Floor, Shreveport, LA, (318) 676-7101.

Monday, October 28, 1996, 1-3 p.m., OFS New Orleans Regional Office, Southern University at New Orleans, Multi Purpose Auditorium, 6400 Press Dr., New Orleans, LA, (504) 243-7700.

Tuesday, October 29, 1996, 9-11 a.m., OFS State Office, A.Z. Young Building, Second Floor Auditorium, 755 Third St., Baton Rouge, LA, (504) 342-3859.

Friday, November 1, 1996, 9-11 a.m., OFS-SES Thibodaux Regional Office, 1000-A Plantation Road, Thibodaux, LA, (504) 447-0952.

Thursday, November 7, 1996, 2-4 p.m., OFS Lafayette Regional Office, Brandywine VI Complex, Room 201, 825 Kaliste Saloom Rd., Lafayette, LA, (318) 262-5255.

Friday, November 8, 1996, 9-11 a.m., OFS Calcasieu Parish Office, Conference Room, 1605 Broad St., Lake Charles, LA, (318) 491-2211.

Tuesday, November 12, 1996, 2-4 p.m., OFS Monroe Regional Office; 122 St. John Street; State Office Building Conference Room 453; Monroe, LA, (318) 362-3386.

Wednesday, November 13, 1996, 9-11 a.m., OFS-SES Alexandria Regional Office, State Office Building - Second Floor Conference Room, 900 Murray St., Alexandria, LA, (318) 487-5202.

Written comments will be accepted through December 5, 1996 at the address below. Copies of the plan may be obtained prior to the hearings from any local Office of Family Support. Copies may also be obtained by writing to the

Department of Social Services, Office of Family Support, Planning Section, Room 321, Box 94065, Baton Rouge, LA 70804-9065 or by contacting the office by telephone at (504) 342-9967.

Madlyn B. Bagneris
Secretary

9610#103

POTPOURRI

Department of Transportation and Development Sabine River Compact Administration

Fall Meeting Notice

The Fall meeting of the Sabine River Compact Administration will be held at the Sabine River Authority of Texas, Toledo Bend Division, Burkeville, TX on Friday November 1, 1996, at 10 a.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the bylaws of the Sabine River Compact Administration.

The Spring meeting will be held at a site in Louisiana to be designated at the above described meeting.

Contact person concerning this meeting is Mary H. Gibson, Sabine River Compact Administration, 15091 Texas Highway, Many, LA 71449, telephone (318) 256-4112.

Mary H. Gibson
Secretary

9610#107

CUMULATIVE INDEX
(Volume 22, Number 10)

<i>Pages</i>	1996	<i>Issue</i>
1 — 75		January
76 — 158		February
159 — 264		March
265 — 322		April
323 — 410		May
411 — 526		June
527 — 676		July
677 — 772		August
773 — 915		September
916 — 1055		October

CR—Committee Report	EO—Executive Order
ER—Emergency Rule	L—Legislation
N—Notice of Intent	P—Potpourri
PPM—Policy and Procedure Memorandum	R—Rule

ADMINISTRATIVE CODE UPDATE

Cumulative

January 1995 - December 1995, 64
January 1996 - March 1996, 313
January 1996 - June 1996, 667
January 1996 - September 1996, 1043

AGRICULTURE AND FORESTRY

Agricultural and Environmental Sciences, Office of

Apiary hearing, 1044P
Boll weevil eradication, 996N
Landscape architect exam, 765P
Pesticide, 291N, 541ER
Plant quarantine, 314P
Retail floristry exam, 153P, 405P, 765P, 905P
Seed certification, 717N

Agricultural Commodities Commission

Fees, 997N
Wheat, 414ER

Animal Health Services, Office of

Livestock Sanitary Board
Animal disease, 414ER, 537ER, 782ER, 928ER
Brucellosis, 462N, 718N, 960R, 1044P
Contagious disease, 718N
Rendering plant, 718N

Forestry, Office of

Seedling, 586N, 678ER
Timber stumpage, 1ER, 121N, 325ER, 581R

Structural Pest Control Commission

Bait/baiting systems, 77ER
Pest Management, 542ER

CIVIL SERVICE

Civil Service Commission

Compensation, 377N
Eligible certification, 998N
Leave, 294N, 999N
Performance appraisal, 999N
Prohibited activities, 121N, 998N
Service rating, 999N

Ethics for Elected Officials, Board of
Lobbyist registration/reporting, 542ER, 720N
Small municipalities, 376N, 804R

CULTURE, RECREATION AND TOURISM

Secretary, Office of the

Byways, 37N, 723N

State Library, Office of

Certification, 241N
Library construction/technology, 12R
Name change, 241N
Restructuring, 241N

ECONOMIC DEVELOPMENT

Architectural Examiners, Board of

Renewal, 1001N
Seal/stamp, 1000N

Boxing and Wrestling Commission

Amend/repeal rules, 377N, 697R

Certified Shorthand Reporters, Board of Examiners of

Disclosure, 445R
Transcript format, 862N

Commerce and Industry, Office of

Enterprise Zone Program, 122N, 445R
Quality jobs, 586N, 961R

Contractors, Licensing Board for

Residential construction, 94R

Economic Development Corporation

Award Program, 783ER, 863N
Linked deposit, 724N
Small business, 415ER, 417ER, 787ER, 864N
Workforce Development/Training, 791ER, 865N

Economically Disadvantaged, Division of

Business development, 678ER, 725N, 1002N

Financial Institutions, Office of

Deed escrow, 187R
Insurance, 1008N

Racing Commission

Bleeder medication, 12R
Entry after excused, 13R
Field less than eight, 13R
First aid, 325ER, 378N, 804R
Superfecta, 326ER, 379N, 805R
Timing of entering, 13R
Video Poker purse, 13R

Real Estate Commission

Adjudicatory proceeding, 95R
Compensation, 96R
Insufficient funds, 161ER, 190R
License/registration/certificate, 96R
Symbols, tradenames, trademark, 96R

EDUCATION

Elementary and Secondary Education, Board of

Bulletin 741

Adult education, 97R
Charter school, 1012N
Instructional staff, 130N, 338R
Religion, 130N, 338R
School administrators, 129N, 337R, 379N, 697R

Bulletin 746

Business/office education, 463N, 806R
Child welfare/attendance, 98R
Foreign language, 38N, 277R
Speech/language/hearing, 464N, 806R
Vocational-technical personnel, 466N, 808R

Bulletin 1191

School transportation, 467N, 809R

Bulletin 1196

Breakfast, 242N, 452R

Food service manager, 242N, 452R

Bulletin 1452

Dropout, 726N

Bulletin 1706

Discipline, 2ER, 190R

Exceptional children, 78ER, 421ER, 932ER

Bulletin 1868

Personnel Manual, 2ER, 327ER, 932ER

Bulletin 1882

Administrative Leadership Academy, 380N, 698R

Bulletin 1943

Teacher assessment, 38N, 98R, 277R

Dropout, 295N

Medication policy, 39N, 277R

Minimum Foundation Program, 1013N

Special Education Advisory Council, 99R

Teacher certification, 726N

Technical college, 130N, 453R, 809R

Student Financial Assistance Commission

Bylaws, 468N, 809R, 866N

Federal Family Educational Loan Program (FFELP), 190R

LEO credit, 593N

Scholarship and Grant Manual, 40N, 338R

ENVIRONMENTAL QUALITY

Air Quality and Radiation Protection, Office of

AQ126 Chemical accident, 161ER, 545ER, 593N, 595N, 596N

AQ128 Quality assurance, 14R

AQ131 Organic compound emission, 14R

AQ132 Petroleum refinery, 16R

AQ133 Ambient air standards, 41N, 278R

AQ134 Point of custody transfer, 44N, 341R

AQ135 Reportable quantity of VOCs, 45N, 341R

AQ136 Miscellaneous amendments, 42N, 338R

AQ137 VOC Storage, 131N, 453R

AQ138 Fugitive emission, 599N

AQ139 Asbestos in Schools/State Buildings, 296N, 698R

AQ141 Perchloroethylene removal, 301N, 702R

AQ142 Crematories, 598N

AQ144 NESHAP Source Categories, 870N

AQ145 Incorporation by reference, 727N

AQ146 Nonattainment new source, 1014N

NEO15 Shielding exemptions/NRC revisions, 380N, 966R

Annual report, 668P

Application submittal, 906P

Fugitive emission, 405P, 669P

Inspection and Maintenance Program (I/M), 259P

NESHAP, 669P

NSPS, 669P

Ozone attainment, 153P

Permit procedure/modification, 66P, 906P

Rate of progress, 906P

Regulatory agenda, 316P

Solid waste, 1045P

State Implementation Plan (SIP), 259P, 906P

Title V Application, 316P

Legal Affairs and Enforcement, Office of

Emergency response, 153P

Regulatory agenda, 1045P

Management and Finance, Office of

OS20 Fee payment, 17R

Secretary, Office of the

HW051 Land disposal, 327ER, 794ER

OS013 Rulemaking petition, 1016N

OS018 Emergency response, 381N, 976R

OS14 Confidentiality, 342R

OS20 Fee payment, 17R

Solid and Hazardous Waste, Office of

HW45 Foreign hazardous waste, 20R, 100R

HW48 Land ban, 22R

HW050 RCRA IV federal, 618N, 830R, 980R

HW051 Land Disposal, 871N

HW053 EPA, 601N, 813R, 980R

HW056 Waste minimization, 629N

SW018 Ditches/air curtains, 278R

SW019 Waste tire transporter, 3ER

SW020 Waste tire, 162ER

SW021 Waste tire, 422ER, 728N, 872N, 933ER

Water Resources, Office of

WP019 Ouachita River, 731N

NPDES, 907P

EXECUTIVE ORDERS

EWE 95-36 West Baton Rouge Parish Bond Allocation, 1

EWE 96-1 TransAmerica Refining Corporation Bond Allocation, 76

MJF 96-1 Affirmative Action, 76

MJF 96-2 Interagency Action Council for the Homeless, 159

MJF 96-3 Affirmative Action, 160

MJF 96-4 Inmate Labor, 161

MJF 96-5 Assistant District Attorneys Advisory and Review Commission, 265

MJF 96-6 Safe/Drug Free Schools/Communities Advisory Council, 265

MJF 96-7 Small Business Bonding Assistance, 266

MJF 96-8 Louisiana LEARN Commission, 268

MJF 96-9 Governor's DWI/Vehicular Homicide Task Force, 323

MJF 96-10 Oklahoma City Bombing Anniversary, 323

MJF 96-11 Housing Finance Agency Bond Allocation, 324

MJF 96-12 Governor's Military Advisory Commission, 411

MJF 96-13 Flying the POW/MIA Flag Over the State Capitol, 411

MJF 96-14 Procurement of Small Purchases, 412

MJF 96-15 Automobile Insurance Rates, 527

MJF 96-16 Flying Flags at Half-staff for Americans Killed at Dhahran, Saudi Arabia, 528

MJF 96-17 Medically Needy Program, 528

MJF 96-18 Inter-agency Transportation Coordination Committee, 529

MJF 96-19 Office of Business Advocacy, 530

MJF 96-20 Substance Abuse Educational Program for State Employees, 530

MJF 96-21 Gaming Control Board's Salary and Per Diem, 677

MJF 96-22 Technology Transfer Programs, 677

MJF 96-23 1996 Corn and Grain Special Permits, 773

MJF 96-24 Office of Contractual Review Public Funds Expenditures, 773

MJF 96-25 Bond Ceiling Allocation Method/Recordkeeping, 774

MJF 96-26 Public Facilities Authority Bond Allocation, 776

MJF 96-27 Emergency Operations Center, 777

MJF 96-28 School-to-Work Council, 780

MJF 96-29 Environmental Protection and Preservation Task Force, 781
MJF 96-30 Bond Allocation—Jefferson Parish Mortgage Authority, 916
MJF 96-31 Bond Allocation—Housing Finance Agency, 916
MJF 96-32 Bond Allocation—Housing Finance Agency, 917
MJF 96-33 Bond Allocation—East Baton Rouge Mortgage Finance Authority, 918
MJF 96-34 Bond Allocation—City of Alexandria, 918
MJF 96-35 Bond Allocation—Bastrop Industrial Development Board, 919
MJF 96-36 Bond Allocation—Parish of Rapides, 920
MJF 96-37 Bond Allocation—Parish of Calcasieu, Inc., Industrial Development Board, 920
MJF 96-38 Bond Allocation—Parish of Lincoln, 921
MJF 96-39 Bond Allocation—Parish of St. Bernard, 922
MJF 96-40 Bond Allocation—New Orleans Home Mortgage Authority, 923
MJF 96-41 D.A.R.E. Advisory Council, 923
MJF 96-42 Statewide Independent Living Council, 924
MJF 96-43 Rehabilitation Advisory Council, 925
MJF 96-44 Drug Control and Violent Crime Policy Board, 926
MJF 96-45 Bond Allocation Extensions, 927

FIREFIGHTERS' PENSION AND RELIEF FUND

City of New Orleans and Vicinity
 Cost of living adjustment, 100R
 Deferred Retirement Option Plan, 703R
 Direct rollover, 243N, 708R

GAMING (also see Public Safety)

Louisiana Lottery Corporation
 On-line lottery, 732N

GOVERNOR'S OFFICE

Administration, Division of

Commissioner, Office of
 Hearing conduct, 934ER, 1019N
 Travel—PPM49, 302N, 423ER, 531PPM, 678PPM
 Maintenance/equipment/service contracts—PPM51, 927PPM

Community Development, Office of
 Consolidated Annual Action Plan, 153P
 Housing and Urban Development (HUD), 1045P
 Facility Planning and Control, Office of
 Controversy resolution, 345R
 Selection procedure, 133N, 345R

Property Assistance Agency
 Fleet management, 736N

State Purchasing, Office of
 Procurement Code, 280R

Uniform Payroll, Office of
 Payroll deduction, 22R

Crime Victims Reparations Board

Victim compensation, 269ER, 302N, 709R

Oil Spill Coordinator's Office

Contingency plan, 406P, 907P

Patient's Compensation Fund Oversight Board

Coverage scope, 1019N
 Enrollment, 1019N
 General provisions, 1019N
 Surcharges, 1019N

Rural Development, Office of
 Project/Funding, 795ER

HEALTH AND HOSPITALS

Chiropractic Examiners, Board of

Conduct/ethics, 191R
 Financial interest, 191R
 Illegal payment, 191R
 Peer review, 191R

Citizens with Developmental Disabilities, Office for

Consumer grievance, 134N

Dentistry, Board of

Advertising/soliciting, 22R, 23R, 738N
 Continuing education, 24R, 738N
 Dental assistant, 22R, 739N
 Dental hygienist, 22R, 740N
 Hearing, 24R
 License, 22R, 23R, 23R, 740N
 Parental consent, 23R
 Parenteral drug, 741N
 Prescription, 738N
 Restricted license, 23R

Electrolysis Examiners, Board of

Electrologist technician, 46N

Embalmers and Funeral Directors, Board of

Exam, 154P, 316P, 909P

Licensed Professional Vocational Rehabilitation

Counselors, Board of

License, 305N, 582R

Medical Examiners, Board of

Clinical laboratory, 195R
 License, 766P
 Physician assistant, 200R
 Physician/surgeon, 207R, 280R
 Registered nurse, 244N, 981R

Nursing, Board of

Annual meeting, 103R
 Domicile, 103R
 Fee, 426ER, 472N, 981R
 Registered nurse, 244N, 280R, 981R
 Respiratory therapy, 745N

Pharmacy, Board of

Pharmacy technician, 46N
 Practice, 50N

Physical Therapy Examiners, Board of

Licensure, 284R

Professional Counselors, Board of Examiners of

Conduct, 631N
 General provisions, 101R

Psychologists, Board of Examiners of

Assistant, 742N
 Board address, 630N, 980R
 Continuing education, 742N

Public Health, Office of

Abortion, 4ER, 25R
 Bacteriological laboratory, 247N, 306N, 455R
 Children's special health, 140N, 362R
 Community based/rural health service, 472N, 840R
 Human subjects, 147N, 368R
 Office of Research Integrity (establishes), 140N, 362R
 Sanitary Code
 Bottled water, 684ER, 750N
 Diseases, 876N
 Lead poisoning, 384N, 711R
 Mechanical wastewater, 307N, 582R, 641N, 984R
 Molluscan shell, 328ER, 385N

Nutria, 26R
 Seafood Inspection, 556ER, 875N
 Sewage Disposal, 843R
 Tattooing, 877N
 Sewage, 684ER, 749N
 WIC, 909P
Radiologic Technology Examiners, Board of
 Definitions, 1023N
 Education, 1023N
Secretary, Office of the
 Ambulance, 285R
 Annual service agreement, 214R
 Case management, 79ER, 162ER, 170ER, 427ER,
 556ER, 797ER, 878N, 879N, 935ER, 937ER, 938ER,
 1031N
 Chiropractic care, 216R, 1032N
 Community care, 569ER, 796ER, 1028N
 Denture, 104R
 Dependent children, 426ER, 935ER
 Developmentally disabled, 433ER, 944ER
 Direct reimbursement, 429ER, 938ER
 Disproportionate share, 163ER, 430ER, 939ER
 Early Periodic Screening Diagnosis and Treatment
 (EPSDT), 104R, 571ER, 571ER, 880N, 942ER
 Emergency medical transportation, 105R, 105R
 Ephedrine, 215R
 Experimental procedure, 476N, 844R
 Facility need review
 Beds, 387N
 Nursing facility, 387N
 Federally qualified health center, 106R, 572ER, 881N,
 943ER
 Home and community based services, 81ER, 945ER
 Home health agency, 641N
 Home health services
 Definitions, 572ER, 685ER
 Homebound criteria, 218R
 Reimbursement, 218R
 Hospital program
 Inpatient, 106R, 219R
 Median, 32R
 Out-of-state services, 33R
 Outpatient, 33R, 573ER, 573ER, 796ER, 883N
 Reimbursement inflation, 33R
 Hospital reimbursement, 574ER, 686ER, 797ER, 1034N
 Informed consent
 Anesthesia/pregnancy, 1035N
 Craniotomy, 1035N
 Female genital treatment, 29R
 Hemodialysis, 30R
 Maternity, 456R
 Oral surgery, 1035N
 Plastic surgery, 1035N
 Radiation, 1035N
 Septoplasty, 1035N
 Urology, 31R, 285R, 712R
 Institutional services, 272ER
 Intermediate care facility, 5ER, 369R, 766P
 Investigational procedure, 476N, 844R
 KIDMED, 106R
 Laboratory, 5ER, 107R, 219R
 Mammoplasty, 308N, 713R
 Maternal and Child Health Block Grant, 387N, 712R

Medicaid, 50N, 370R, 370R, 388N, 441ER, 574ER,
 583R, 935ER, 1027N, 1029N
 Medical equipment, 217R, 570ER, 879N, 942ER
 Medically needy, 434ER, 578ER, 882N, 947ER, 948ER
 Mental health, 107R, 166ER, 456R
 Mentally retarded, 433ER, 944ER
 Neonatology, 8ER, 248N, 583R
 Nursing facility, 7ER, 34R, 34R, 271ER, 309N, 330ER,
 369R, 435ER, 438ER, 669P, 766P
 Nursing home, 477N, 645N
 Pharmacy program
 Benefits, 273ER, 686ER
 Copayment, 107R
 Drug utilization, 273ER, 686ER
 Medicare B, 274ER
 Overhead cost, 108R, 688ER, 884N
 Point of sale, 273ER, 686ER
 Reimbursement, 249N, 583R
 Private ICF/MR facility, 184ER, 249N
 Professional service program, 108R, 330ER, 575ER,
 575ER, 576ER, 577ER, 885N, 945ER, 1032N, 1033N
 Rehabilitation clinic/hospital, 109R, 577ER, 798ER,
 946ER, 1028N
 Rural health, 109R
 Substance abuse, 109R
 Transplant, 185ER, 250N, 584R
 Tuberculosis, 110R
 Vaccine, 8ER, 259P, 334ER, 502N, 799ER, 844R
 X-ray, 5ER, 107R, 219R
Speech-Language Pathology and Audiology, Board of
Examiners for
 Rules repeal/repromulgation, 346R
Veterinary Medicine, Board of
 Exam, 1046P

INSURANCE

Insurance, Commissioner of
 Regulation 32 Benefits coordination, 751N
 Regulation 54 Automobile insurance, 68P
 Regulation 55 Life insurance, 645N, 984R
 Regulation 58 Viatical settlements, 148N, 404CR, 670P,
 989R
 Regulation 59 Health insurance data, 251N
 Regulation 60 Life insurance, 651N, 886N
 Regulation 61 Actuarial Opinion Statement, 891N
 Rule/regulation repeal, 892N

LABOR

Employment Security, Office of
 Continuance/postponement, 949ER, 1036N
 Electronic transfer, 9ER, 185ER, 254N, 520CR
 Re-opening/rehearing, 949ER, 1036N
Workers' Compensation, Office of
 Appeal, 993R
 Assessment, 34R
 Average weekly wage, 766P
 Benefits limits, 767P
 Compliance, 220R, 285R, 503N, 991R
 Filing, 34R
 Forms, 221R, 503N, 992R
 Fraud, 222R, 504N, 993R
 Hearing, 993R
 Hearing officer, 799ER, 893N

LOUISIANA LEGISLATURE

House of Representatives

- Committee on Commerce
 - Economically disadvantaged business, 903CR
- Committee on Health and Welfare
 - Hospital Program outpatient rehabilitation, 904CR
 - Rehabilitation clinic reimbursement, 905CR

Senate

- Committee on Health and Welfare
 - Hospital Program outpatient rehabilitation, 905CR
 - Rehabilitation clinic reimbursement, 905CR
- Office of the President
 - Professional/occupational law/rules study (SR24), 520L

NATURAL RESOURCES

Capital Area Ground Water Conservation Commission

- Water well permits, 656N

Conservation, Office of

- Commercial facility application, 317P
- Oilfield waste, 406P
- Orphaned oilfield, 68P, 155P, 317P, 521P, 670P, 1047P

PUBLIC SAFETY AND CORRECTIONS

Gaming Control Board

- Chairman, 579ER, 759N
- Civil penalty, 688ER, 758N
- Conduct, 688ER, 758N
- Definitions, 579ER, 688ER, 758N, 759N
- Ethics, 688ER, 758N
- Fees, 950ER
- License, 579ER, 759N, 800ER, 894N
- Hearing, 579ER, 759N, 800ER, 894N
- Quarterly submission, 950ER
- Significant service, 688ER, 758N

Liquefied Petroleum Gas Commission

- Fees, 801ER, 1036N

Motor Vehicles, Office of

- Driving school, 286R

Pardons, Board of

- Clemency, 81ER

Private Investigator Examiners, Board of

- Apprentice, 255N, 459R
- Continuing education, 150N, 371R

Private Security Examiners, Board of

- Board, 657N
- Definitions, 657N
- Investigations, 657N
- Organization, 657N
- Training, 657N

State Police, Office of

- Bingo/keno/raffle, 110R
- Explosive, 760N
- Handgun, 505N, 844R

REVENUE AND TAXATION

Alcoholic Beverage Control, Office of

- Alcoholic beverage sampling, 116R

Excise Taxes Division

- Dyed special fuel, 256N, 460R

Income Tax Division

- Estate transfer tax, 760N
- Inheritance tax, 760N
- Protest remittance, 895N
- Recovery, 895N

Sales Tax Division

- Alternate filing period, 512N, 852R
- Motion picture rental, 514N, 853R
- Nonprofit organization, 515N, 854R
- Rental exemption, 516N, 855R

Secretary, Office of the

- Electronic filing, 35R

Severance Tax Division

- Natural gas, 317N
- Oilfield site, 1037N

Tax Commission

- Ad valorem tax, 117R
- Timber stumpage, 1ER, 121N, 325ER, 581R

SOCIAL SERVICES

Community Services, Office of

- Foster children, 910P
- Home energy, 1048P
- Homeless, 260P
- Social Services Block Grant (SSBG), 318P
- Weatherization, 318P

Family Support, Office of

- Administrative procedures, 952ER, 1040N
- Aid to Families with Dependent Children (AFDC), 517N, 951ER, 1038N, 1039N
- Child support, 118R, 223R
- Family independence, 896N
- Food Stamps, 52N, 275ER, 286R, 311N, 391N, 517N, 584R, 691ER, 761N, 952ER, 1040N
- Individual/family grant, 897N
- JOBS Program, 762N, 952ER
- Minor parents, 898N
- Needy family, 1048P
- Parenting education, 899N
- Paternity, 10ER, 117R, 118R
- Uniform Interstate Family Support Act, 224R

Rehabilitation Services, Office of

- Policy manual, 660N, 691ER, 993R
- Randolph-Sheppard Trust, 119R

Secretary, Office of

- Child Care and Development Block Grant, 406P

TRANSPORTATION OF DEVELOPMENT

Highways/Engineering

- Rural water district, 228R
- Signs, 224R, 228R

Professional Engineers and Land Surveyors, Board of

Registration for

- Property boundary, 392N, 713R
- Seals, 54N, 287R
- Temporary permit, 53N, 286R

Public Works, Office of

- Dam safety, 763N

Sabine River Compact Administration

- Meeting, 406P, 1049P

Secretary, Office of the

- Crescent City Connection, 957ER, 958ER, 1041N, 1041N

Weights, Measures, and Standards

- Legal limitation, 120R
- Violation review committee, 151N, 372R

TREASURY

Bond Commission

Line of credit, 10ER, 693ER, 902N
Reimbursement contract, 442ER, 661N, 993R

Housing Finance Agency

HOME funds, 335ER
HOME rental housing, 59N, 311N, 717R

State Employees Group Benefits Program, Board of

Trustees of the

Organ transplant, 692ER, 763N, 959ER
Prescription, 54N, 287R
Private nursing, 692ER, 763N, 959ER
Well child care, 692ER, 763N, 959ER

State Employees' Retirement System, Board of

Trustees of the

Rules codification/amendment, 57N, 373R

Teachers' Retirement System, Board of Trustees of the

Deductions, 901N
Deferred Retirement Option Plan (DROP), 1042N
Reports via tape/diskette, 900N
Retiree's return to work, 58N, 290R

WILDLIFE AND FISHERIES

Fisheries, Office of

Commercial fisherman, 60N, 275ER, 373R
Dealer receipt, 60N, 275ER, 373R
Flounder, 276ER, 336ER, 518N, 693ER, 693ER, 802ER
King mackerel, 802ER
Mussel, 374R, 444ER
Net buy-back, 231R

Nets, 231R

Oyster, 120R

Pompano, 395N, 859R

Wildlife and Fisheries Commission

Alligator, 580ER

Bait dealer, 903N

Bass, 61N, 376R

Black Drum, 83ER, 233R

Commercial fisherman, 85ER, 235R

Flounder, 83ER, 233R, 337ER, 519N, 696ER

Fur harvest, 803ER

Hunting season, 258N, 585R, 663N, 803ER

Migratory game bird, 695ER

Mullet, 86ER, 236R

Mussel, 62N, 319N

Net buy-back, 88ER

Oyster, 90ER, 337ER, 696ER, 764N, 960ER

Physically-challenged hunter, 397N, 856R

Pompano, 83ER

Red Snapper, 11ER, 186ER, 276ER, 445ER

Reef fish, 401N, 860R

Rod and reel, 90ER, 237R

Seining permit, 666N

Sheepshead, 83ER, 233R

Shrimp, 336ER, 580ER, 581ER, 695ER, 696ER

Spotted Seatrout, 91ER, 238R

Timken wildlife management, 402N, 860R

Traversing, 240R

Waddill Wildlife Refuge, 403N, 861R



OFFICE OF THE STATE REGISTER INSERTION ORDER (eff. 9/96)

1051 North Third Street Post Office Box 94095
Baton Rouge, LA 70804-9095 (504)342-5015 FAX 342-1057

(SUBMIT A SEPARATE INSERTION ORDER PER DOCUMENT)

☐ EMERGENCY RULE (ER); ☐ NOTICE OF INTENT (NOI); ☐ RULE; ☐ POTPOURRI

REFER TO INSTRUCTIONS ON REVERSE SIDE

This is your authority to publish in the (month) _____, 19 ____ *Louisiana Register* the document indicated above.

Office/Board/Commission promulgating this document

Department under which office/board/commission is classified

(name) (title)
Name and title of person whose signature will appear in the publication (at the end of the document)

(name) (phone) (fax)
Name, phone number, and FAX number of person to contact regarding this document

Provide a short descriptive listing for this document to be used in the *Louisiana Register's* TABLE OF CONTENTS/INDEX (note: this description should match the fiscal statement title, if sending a NOI):

*If sending a diskette, indicate the name of the file on diskette:

Important: If submitting both an ER and a NOI to be published this month, **AND** if the rule text in the ER is identical to the rule text in the NOI, check here: ☐

Signature of Agency Head or Designee

Print Name and Title of Agency Head or Designee

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT # _____

☐ **ISIS AGENCY:** I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

AGENCY

ORGANIZATION #

OBJECT

SUB-OBJECT

REPORTING CATEGORY

☐ **NON-ISIS AGENCY:** I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Address for Agencies:

Signature of Agency Head or Designee - Phone #

Agency Name

Street Address or Post Office Box

City ST Zipcode

Office of the State Register Use Only

1/4 PG + ____ Lines 1/2 PG + ____ Lines 3/4 PG + ____ Lines

____ Full PG(s) + ____ Lines Typesetting ____ TOTAL ____

EMERGENCY RULE (ER) INSTRUCTIONS:

- 1) For an ER which **HAS NOT BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous ER or as a NOI), send the new ER on *diskette and include in this order: opening/introductory paragraphs containing effective date and number of days ER in effect; and rule text in LAC codified form with updated Authority and Historical Notes.
- 2) For an ER which **HAS BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous ER or as a NOI):
 - a) if **MINOR REVISIONS** are made, XEROX a copy of the previous ER or NOI from the *Louisiana Register*, and show changes/revisions with a red pen; or
 - *b) if **MAJOR REVISIONS** are made, send a new ER on *diskette and include in this order: opening/introductory paragraphs containing effective date and number of days ER in effect; and rule text in LAC codified form with updated Authority and Historical Notes.

NOTICE OF INTENT (NOI) INSTRUCTIONS:

- 1) For a NOI which **HAS NOT BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous NOI or as an ER):
 - a) send the new NOI on *diskette and include, in this order: opening/introductory paragraphs; rule text in LAC codified form with updated Authority and Historical Notes; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures.
- 2) For a NOI which **HAS BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous NOI or as an ER):
 - a) if **MINOR REVISIONS** are made, XEROX a copy of the previous NOI or ER from the *Louisiana Register*, and show changes/revisions with a red pen; send a *diskette with opening/introductory paragraphs; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures; **OR**
 - *b) if **MAJOR REVISIONS** are made, send a new NOI on *diskette and include, in this order: opening/introductory paragraphs; rule text in LAC codified form with updated Authority and Historical Notes; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures.

RULE INSTRUCTIONS:

- 1) If the NOI was published in full (rule text included) XEROX the entire NOI from the *Louisiana Register* (including page numbers and document number at the end of the fiscal statement) and show changes/revisions with a red pen.
- 2) If the NOI referenced the reader to rule text in an ER, XEROX the entire NOI from the *Louisiana Register* (including page numbers and document number at the end of the fiscal statement) and XEROX the entire ER from the *Louisiana Register* (including page numbers and document number at the end of the document); show changes/revisions with a red pen.
- 3) If the NOI was referenced (rule text was not printed) xerox the entire NOI from the *Louisiana Register* (including page numbers and document number at the end of the fiscal statement) and show changes/revisions with a red pen. **IMPORTANT: if changes/revisions have been made to the unpublished rule text since it was originally proposed through the NOI, send a NEW *diskette of the rule text with all changes incorporated into the document.**

POTPOURRI INSTRUCTIONS:

Send a *diskette containing the document.

